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IN THIS ISSUE

Agriculture, Department of
Bellingham Technical College
Community and Family Health,
Division of
Community and Technical Colleges,
State Board for
Ecology, Department of
Edmonds Community College
Education, State Board of
Employment Security Department
Fish and Wildlife Commission
Fish and Wildlife, Department of
Governor, Office of the
Grays Harbor College
Health Care Authority
Health, Department of
Health Services Commission
Health, State Board of
Higher Education Coordinating Board
Insurance Commissioner, Office of
Labor and Industries, Department of

Licensing, Department of
Liquor Control Board
Lottery Commission
Natural Resources, Department of
Personnel, Department of
Pharmacy, Board of
Podiatric Medical Board
Public Disclosure Commission
Public Instruction, Superintendent of
Revenue, Department of
Seattle Community Colleges
Social and Health Services, Department of
Supreme Court, State
Transportation Commission
Transportation, Department of
Transportation Improvement Board
Utilities and Transportation Commission
Veterans' Affairs, Department of
Workforce Training and Education
Coordinating Board

(Subject/Agency index at back of issue)
This issue contains documents officially
filed not later than July 6, 1994

CITATION

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

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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 July 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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Raymond W. Haman
Chairman, Statute Law Committee

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Code Reviser

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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) **PREPROPOSAL**-includes the Preproposal Statement of Intent that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **PERMANENT**-includes the full text of permanently adopted rules.
- (d) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (e) **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.
- (f) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (g) **INDEX**-includes a combined subject matter and agency index.

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

2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

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

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

3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

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

4. EFFECTIVE DATE OF RULES

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

5. EDITORIAL CORRECTIONS

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

1993 - 1994

DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION

Issue No.	Closing Dates ¹			Distribution Date	First Agency Hearing Date ³
	Non-OTS & 30 p. or more	Non-OTS & 11 to 29 p.	OTS ² or 10 p. max. Non-OTS		
<i>For Inclusion in--</i>	<i>File no later than--</i>			<i>Count 20 days from--</i>	<i>For hearing on or after</i>
93-16	Jul 7	Jul 21	Aug 4	Aug 18	Sep 7
93-17	Jul 21	Aug 4	Aug 18	Sep 1	Sep 21
93-18	Aug 4	Aug 18	Sep 1	Sep 15	Oct 5
93-19	Aug 25	Sep 8	Sep 22	Oct 6	Oct 26
93-20	Sep 8	Sep 22	Oct 6	Oct 20	Nov 9
93-21	Sep 22	Oct 6	Oct 20	Nov 3	Nov 23
93-22	Oct 6	Oct 20	Nov 3	Nov 17	Dec 7
93-23	Oct 20	Nov 3	Nov 17	Dec 1	Dec 21
93-24	Nov 3	Nov 17	Dec 1	Dec 15	Jan 4, 1994
94-01	Nov 24	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 25
94-02	Dec 8	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 8
94-03	Dec 22, 1993	Jan 5, 1994	Jan 19	Feb 2	Feb 22
94-04	Jan 5	Jan 19	Feb 2	Feb 16	Mar 8
94-05	Jan 19	Feb 2	Feb 16	Mar 2	Mar 22
94-06	Feb 2	Feb 16	Mar 2	Mar 16	Apr 5
94-07	Feb 23	Mar 9	Mar 23	Apr 6	Apr 26
94-08	Mar 9	Mar 23	Apr 6	Apr 20	May 10
94-09	Mar 23	Apr 6	Apr 20	May 4	May 24
94-10	Apr 6	Apr 20	May 4	May 18	Jun 7
94-11	Apr 20	May 4	May 18	Jun 1	Jun 21
94-12	May 4	May 18	Jun 1	Jun 15	Jul 5
94-13	May 25	Jun 8	Jun 22	Jul 6	Jul 26
94-14	Jun 8	Jun 22	Jul 6	Jul 20	Aug 9
94-15	Jun 22	Jul 6	Jul 20	Aug 3	Aug 23
94-16	Jul 6	Jul 20	Aug 3	Aug 17	Sep 6
94-17	Jul 27	Aug 10	Aug 24	Sep 7	Sep 27
94-18	Aug 10	Aug 24	Sep 7	Sep 21	Oct 11
94-19	Aug 24	Sep 7	Sep 21	Oct 5	Oct 25
94-20	Sep 7	Sep 21	Oct 5	Oct 19	Nov 8
94-21	Sep 21	Oct 5	Oct 19	Nov 2	Nov 22
94-22	Oct 5	Oct 19	Nov 2	Nov 16	Dec 6
94-23	Oct 26	Nov 9	Nov 23	Dec 7	Dec 27
94-24	Nov 9	Nov 23	Dec 7	Dec 21	Jan 10, 1995

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

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

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

WSR 94-14-009
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
NATURAL RESOURCES

[Order 622—Filed June 23, 1994, 3:04 p.m.]

Subject of Possible Rule Making: Amend WAC 332-30-166 to increase the fee for disposal of dredged material to open water sites in Puget Sound and the Strait of Juan de Fuca, and state the existing disposal fee for Grays Harbor and Willapa Bay.

Persons may comment on this subject in writing to Phil Hertzog, Department of Natural Resources, P.O. Box 47027, Olympia, WA 98504-7027, or by phone (206) 902-1066, Monday through Friday, 8:00 to 5:00. Comments are due by August 17, 1994.

Other Information or Comments by Agency at this Time, if any: The Department of Natural Resources will be filing an emergency rule change on or about June 8 to increase the fee, and this emergency rule change will be valid for 120 days. The emergency rule change will amend WAC 332-30-166 to increase the disposal fee for dredged material to open water sites in Puget Sound and the Strait of Juan de Fuca from \$0.40 to \$0.45 per cubic yard.

June 22, 1994

Kaleen Cottingham
Supervisor

AMENDATORY SECTION (Amending WSR 90-02-085, filed 1/3/90, effective 2/3/90)

WAC 332-30-166 Open water disposal sites. (1) Open water disposal sites are established primarily for the disposal of dredged material obtained from marine or fresh waters. These sites are generally not available for disposal of material derived from upland or dryland excavation except when such materials would enhance the aquatic habitat.

(2) Material may be disposed of on state-owned aquatic land only at approved open water disposal sites and only after authorization has been obtained from the department. Applications for use of any area other than an established site shall be rejected. However, the applicant may appeal to the interagency open water disposal site evaluation committee for establishment of a new site.

(3) Application for use of an established site must be for dredged material that meets the approval of federal and state agencies and for which there is no practical alternative upland disposal site or beneficial use such as beach enhancement.

(4) The department will only issue authorization for use of the site after:

(a) The environmental protection agency and department of ecology notify the department that, in accordance with Sections 404 and 401, respectively, of the Federal Clean Water Act, the dredged materials are suitable for in-water disposal and do not appear to create a threat to human health, welfare, or the environment; and

(b) All necessary federal, state, and local permits are acquired.

(5) Any use authorization granted by the department shall be subject to the terms and conditions of any required federal, state, or local permits.

(6) The department shall suspend or terminate any authorization to use a site upon the expiration of any required permit.

(7) All leases for use of a designated site must require notification to DNR in Olympia twenty-four hours prior to each use. DNR Olympia must be notified five working days prior to the first use to permit an on-site visit to confirm with dump operator the site location.

(8) Pipeline disposal of material to an established disposal site will require special consideration.

(9) Fees will be charged at rates sufficient to cover all departmental costs associated with management of the sites. Fees will be reviewed and adjusted annually or more often as needed. A penalty fee may be charged for unauthorized dumping or dumping beyond the lease site. Army Corps of Engineers navigation channel maintenance projects (~~(where there is no local sponsor))~~ where there is no local sponsor are exempt from this fee schedule.

FEES

(a) Puget Sound and Strait of Juan De Fuca:

~~((+))~~ All disposal sites (~~(\$0.40)~~) \$0.45 per cubic yard ~~((e.y.f.))~~ (c.y.), \$2,000 minimum (~~(+H.))~~

(b) Grays Harbor/Willapa (~~Harbor~~) Bay: All disposal sites \$0.10 per cubic yard (c.y.), minimum fee \$300.00

(c) Damage fee - \$5.00/cubic yard

(10) Open water disposal site selection. Sites are selected and managed by the department with the advice of the interagency open water disposal site evaluation committee (a technical committee of the aquatic resources advisory committee). The committee is composed of representatives of the state departments of ecology, fisheries, game, and natural resources as well as the Federal Army Corps of Engineers, National Marine Fisheries Service, Environmental Protection Agency, and Fish and Wildlife Service. The department chairs the committee. Meetings are irregular. The committee has developed a series of guidelines to be used in selecting disposal sites. The objectives of the site selection guidelines are to reduce damage to living resources known to utilize the area, and to minimize the disruption of normal human activity that is known to occur in the area. The guidelines are as follows:

(a) Select areas of common or usual natural characteristics. Avoid areas with uncommon or unusual characteristics.

(b) Select areas, where possible, of minimal dispersal of material rather than maximum widespread dispersal.

(c) Sites subject to high velocity currents will be limited to sandy or coarse material whenever feasible.

(d) When possible, use disposal sites that have substrate similar to the material being dumped.

(e) Select areas close to dredge sources to insure use of the sites.

(f) Protect known fish nursery, fishery harvest areas, fish migration routes, and aquaculture installations.

(g) Areas proposed for dredged material disposal may require an investigation of the biological and physical systems which exist in the area.

(h) Current velocity, particle size, bottom slope and method of disposal must be considered.

(i) Projects transporting dredged material by pipeline will require individual review.

(j) Placement of temporary site marking buoys may be required.

(k) The department will assure disposal occurs in accordance with permit conditions. Compliance measures may include, but are not limited to, visual or electronic surveillance, marking of sites with buoys, requiring submittal of operator reports and bottom sampling or inspection.

(l) Special consideration should be given to placing material at a site where it will enhance the habitat for living resources.

(m) Locate sites where surveillance is effective and can easily be found by tugboat operators.

(11) The department shall conduct such subtidal surveys as are necessary for siting and managing the disposal sites.

WSR 94-14-018
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed June 23, 1994, 4:19 p.m.]

Specific Statutory Authority for New Rule: Administrative Notice 94-53 and 94-30, RCW 74.04.050.

Reasons Why the New Rule is Needed: To minimize the administrative burden for elderly and disabled household members choosing to deduct their recurrent medical expenses. Offers a method of claiming a deduction for recurring medical expenses. WAC 388-49-110 Verification.

Goals of New Rule: To establish policy whereby the department shall verify incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction at food stamp application and recertification. Medical expense verification will no longer be required for monthly reporting households.

Process for Developing New Rule: Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Contact Diana Arnaud, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (206) 438-8318 or SCAN 585, FAX 438-8258 (SCAN 585).

June 23, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-14-025
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF TRANSPORTATION

[Filed June 27, 1994, 2:30 p.m.]

Specific Statutory Authority for New Rule: RCW 47.56.030 and 47.60.326.

Reasons Why the New Rule is Needed: With passage of Initiative 601 the Transportation Commission is staging needed tariff increases so as not to exceed the annual growth factor. The needed continued implementation of the oversized vehicle fare cost recovery will be implemented in

October 1994, a new fiscal year with its related growth factor.

Goals of New Rule: Ensure equity among vehicle size tariff charges, attain full operating cost recovery on the Sidney route, comply with regional commuter trip reduction program by providing a monthly pass, and encourage increased commuter bicycles.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties can participate in the formulation of the new rule by contacting Ray Deardorf, 801 Alaskan Way, Seattle, WA 98104, phone (206) 464-6220, FAX (206) 587-5160, State Transportation Commission, Personal Mobility Committee Meeting, July 12, 1994, Room 1D2, Transportation Building, Olympia, WA 98504, Contact Person: Michael T. McCarthy, 801 Alaskan Way, Seattle, WA 98104, phone (206) 464-6428, FAX (206) 464-5482.

The Ferry Advisory Committee meeting schedule is as follows:

Central Sound Ferry Advisory Committee (covering Bainbridge Island, Bremerton, Edmonds, Kingston, Seattle, Port Townsend and Clallam County): Monday, July 11 from 7 p.m. to 9 p.m. at Kingston Community Center (Banquet Room), 11212 State Highway 104.

North Central Sound Ferry Advisory Committee (covering Mukilteo, Clinton, Keystone): Tuesday, July 12 from 7 p.m. to 9 p.m. at Coupeville Middle and High School, 5 Southeast Terry Road.

Northern Region Ferry Advisory Committee (covering Anacortes): Wednesday, July 13 from 8 a.m. to 10 a.m. at Anacortes City Hall (Council Chambers), 6th and Q Streets.

Northern Region Ferry Advisory Committee (covering San Juan Islands): Wednesday, July 13 from 1:30 p.m. to 4:30 p.m. at the Orcas Hotel, Orcas Ferry Landing.

South Sound Ferry Advisory Committee (covering Vashon Head, Tahlequah, Fauntleroy and Southworth): Thursday, July 14 from 6:30 p.m. to 8:30 p.m. at Harper Evangelical Church, 10384 Sedgwick Road, Southworth.

The contact person for these Ferry Advisory Committee meetings is: Princess Jackson-Smith, 801 Alaskan Way, Seattle, WA 98104, phone (206) 464-7866, FAX (206) 464-6270.

June 27, 1994
Chris R. Rose
Administrator
Transportation Commission

WSR 94-14-031
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF HEALTH

[Filed June 28, 1994, 1:32 p.m.]

Specific Statutory Authority for New Rule: RCW 18.52.061, 18.52.110.

Reasons Why the New Rule is Needed: WAC 246-843-010(7), 246-843-090, 246-843-205 and 246-843-320 have housekeeping changes, a new subsection in WAC 246-843-090 and repealing WAC 246-843-240.

Goals of New Rule: To clarify existing rules, comply with legislation and allow a waiver of the administrator-in-training (AIT) program.

Process for Developing New Rule: Mailing.

How Interested Parties can Participate in Formulation of the New Rule: Send all comments and information to Karen Burgess, Board of Nursing Home Administrators, 1300 S.E. Quince Street, P.O. Box 47869, Olympia, WA 98504-7869, (206) 753-3729, FAX (206) 586-7774. Comments due by August 15, 1994.

June 28, 1994
Karen Burgess
Program Manager

WSR 94-14-032

**PREPROPOSAL STATEMENT OF INTENT
OFFICE OF**

INSURANCE COMMISSIONER

[Order A-1—Filed June 28, 1994, 2:43 p.m.]

Specific Statutory Authority for New Rule: RCW 48.05.380, 48.05.390.

Reasons Why the New Rule is Needed: The 1994 legislature amended RCW 48.05.390 to eliminate some of the previous data reporting requirements. The rules implementing this statute must be revised to conform to the amended statutory reporting requirements.

Goals of New Rule: To eliminate forms dealing with paid and unpaid losses, closed and open claims; to eliminate reporting of products liability data under RCW 48.05.390 (1)(b); to remove the reporting forms from the WAC to provide flexibility to make minor changes in the future; to exempt insurers not licensed to write general casualty insurance; and to provide a means for professional reinsurers to obtain a permanent exemption from these reporting requirements.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: No meetings are planned. Contact Lee Barclay, Property/Casualty Actuary, Office of Insurance Commissioner, Insurance Building, P.O. Box 40255, Olympia, WA 98504-0255, phone (206) 586-3685, FAX (206) 585-3535. Submit comments by July 29, 1994. (Refer to Matter No. A-1).

June 28, 1994
Deborah Senn
Insurance Commissioner

WSR 94-14-043

**PREPROPOSAL STATEMENT OF INTENT
STATE BOARD FOR COMMUNITY
AND TECHNICAL COLLEGES**

[Filed June 29, 1994, 10:22 a.m.]

Specific Statutory Authority for New Rule: Chapter 28B.50 RCW (Community and technical colleges, generally)

Reasons Why the New Rules are Needed: High school completion (clarify administrative responsibility/establish program standards); even start (clarify eligibility requirements and broaden scope of participation); running start (clarify credit-related revisions and ongoing legislative issues and/or changes); tuition waivers (legislative changes in tuition RCWs (28B.15) provides more flexibility at the

community colleges to determine level (categories/amount) of waivers); and hazing (Attorney General's Office has recommended that our system adopt such a policy).

Goals of New Rules: Clarification as necessary based on individual rule adoptions.

Process for Developing New Rule: Normal rule-making process including this preproposal statement of intent (CR 101) filing which gives rules by subject (and by group) that our agency intends to adopt over the course of the next year. Rules will be adopted individually, however.

How Interested Parties can Participate in Formulation of the New Rule: Claire Krueger, Executive Assistant/Agency Rules Coordinator, State Board for Community and Technical Colleges, P.O. Box 42494, Olympia, WA 98504-2495.

June 29, 1994
Claire C. Krueger
Executive Assistant
Agency Rules Coordinator

WSR 94-14-045

**PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 29, 1994, 10:52 a.m.]

Specific Statutory Authority for New Rule: The statutory authority for this rule is found in the Mickey LeLand Childhood Hunger Act, Public Law 103-66.

Reasons Why the New Rule is Needed: Rule is needed to bring Washington state law into compliance with provisions of the Mickey LeLand Act, Public Law 103-66. WAC 388-49-360 Work registration and employment and training (E&T) program services and 388-49-380 Voluntary quit.

Goals of New Rule: The goal of this rule is to update Washington Administrative Code to allow certain households or the department in certain situations to the designate a household member who will represent the household for purposes of employment and training and voluntary quit provisions.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Al Frazier, Lacey Government Center, P.O. Box 45470, Olympia, WA 98504-5470, phone (206) 438-8272, FAX 438-8258.

June 29, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-14-046

**PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

(Public Assistance)

[Filed June 29, 1994, 3:04 p.m.]

Specific Statutory Authority for New Rule: Public Law 101-624, Section 1725, Administrative Notice 92-34, RCW 74.04.050.

Reasons Why the New Rule is Needed: Public Law 101-624 requires that certain food stamp households be allowed to select the head of household for employment and training and voluntary quit provisions. WAC 388-49-100 Rights and responsibilities.

Goals of New Rule: To advise food stamp households of their right to select an adult parent of children living in the household or an adult who has parental control over children living in the household as the household employment representative.

Process for Developing New Rule: Internal (management) and external (field staff) review process, whereby draft material is distributed for review and comment. All comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Diana Arnaud, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (SCAN 585) 438-8318, FAX (SCAN 585) 438-8258.

June 29, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-14-047
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 29, 1994, 3:05 p.m.]

Specific Statutory Authority for New Rule: Public Law 101-624, Section 1725, Administrative Notice 92-34, RCW 74.04.050.

Reasons Why the New Rule is Needed: Public Law 101-624 requires that certain food stamp households be allowed to select the head of household for employment and training and voluntary quit provisions. WAC 388-49-020 Definitions.

Goals of New Rule: To create the new definition, "household employment representative" to identify which food stamp households can select their head of household for employment and training purposes and voluntary quit provisions.

Process for Developing New Rule: Internal (management) and external (field staff) review process, whereby draft material is distributed for review and comment. All comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Diana Arnaud, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone (206) 438-8318 or (SCAN) 585-8318, FAX 438-8258 or (SCAN) 585).

June 29, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-14-058
PREPROPOSAL STATEMENT OF INTENT
LOTTERY COMMISSION
[Filed June 30, 1994, 12:54 p.m.]

Specific Statutory Authority for New Rule: RCW 67.70.040(1).

Reasons Why the New Rule is Needed: The lottery is considering proposing these rules for adoption at its September 9, 1994, meeting: Rules for two new instant ticket games; amendment to WAC 315-11A-122, the rule for Instant Game No. 122, to change the play symbols used in the game; and amendment to WAC 315-04-200 for the purpose of rendering ineligible for a lottery license, any person guilty of any felony.

Goals of New Rule: The goal of the rules for the two new instant ticket games will be to explain how the games function to retailers and players. Rigid validation requirements will prevent prize payment on invalid tickets. The goal of the amendment to WAC 315-11A-122 is to reduce confusion among retailers and players by changing the play symbols designated for Game 122. The goal of the amendment to WAC 315-04-200 is to maintain and reinforce the integrity of the lottery by preventing all convicted felons from obtaining a lottery license.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Contact Jeff Burkhardt, Rules Coordinator, by July 29, 1994, at (206) 586-6583, FAX (206) 753-2602, P.O. Box 43000, Olympia, WA 98504, with any comments or questions regarding this statement of intent.

June 23, 1994
Evelyn P. Yenson
Director

WSR 94-14-061
PREPROPOSAL STATEMENT OF INTENT
EMPLOYMENT SECURITY DEPARTMENT
[Filed June 30, 1994, 4:40 p.m.]

Specific Statutory Authority for New Rule: RCW 50.12.010.

Reasons Why the New Rule is Needed: The amendments to WAC 192-12-030 and 192-12-050 are necessary because the statutes quoted therein no longer accurately reflect the current language of those statutes. Other amendatory sections are filed to clarify language and to comply with amendatory language passed during 1993 legislative session. WAC 192-10-320 is repealed because it refers to a federal program (work incentive program) that has been repealed by congress.

Goals of New Rule: All proposed changes are of a housekeeping nature only. The goal is to delete verbatim quotes and update regulations to comply with current statutory language, without changing the substance or intent of the regulations.

Process for Developing New Rule: Changes are housekeeping only.

How Interested Parties can Participate in Formulation of the New Rule: Because amendments involve housekeeping changes only, limited public participation is anticipated. More information may be obtained from Juanita Myers,

Employment Security Department, Unemployment Insurance Division, P.O. Box 9046, Olympia, WA 98507-9046. Interested persons may submit written comments to John Nemes, Rules Coordinator, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046. Public rule-making hearings will be scheduled, dates and times will be announced and published, at which time interested persons may present comment.

June 30, 1994

Dale Ziegler

Assistant Commissioner

AMENDATORY SECTION [(Amending Order 1-78, filed 8/14/78)]

WAC 192-12-030 Reports required of persons or entities for whom personal services are performed as provided by RCW 50.12.070 and 50.20.150. (~~RCW 50.12.070 provides:~~

~~"* * * The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he deems necessary for the effective administration of this act. Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the names of all such workers and such other information as the commissioner may by regulation prescribe."~~

~~RCW 50.20.150 provides:~~

~~"The applicant for initial determination, his most recent employing unit as stated by the applicant, and any other interested party which the commissioner by regulation prescribes, shall, if not previously notified within the same continuous period of unemployment, be given notice promptly in writing that an application for initial determination has been filed and such notice shall contain the reasons given by the applicant for his last separation from work. If during the benefit year, the applicant becomes unemployed after having accepted subsequent work, and files a claim for waiting period credit or benefits, a similar notice shall be given promptly to his then most recent employing unit as stated by him, or to any other interested party which the commissioner by regulation prescribes."~~

~~RCW 50.32.020 provides:~~

~~"The applicant or claimant, his most recent employing unit or any interested party which the commissioner by regulation prescribes, may file an appeal from any determination or redetermination with the appeal tribunal within ten days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to his last known address: * * *"~~ RCW 50.12.010 provides:

~~"It shall be the duty of the commissioner to administer this act. He shall have the power and authority to adopt, amend, or rescind such rules and regulations, * * * as he deems necessary or suitable to that end. * * *"~~

~~The commissioner accordingly prescribes:))~~

(1) **Employer's status report.** Every person or entity which has or subsequent to January 1, 1936, had one or more individuals performing services for it in the state of Washington shall have on file with the commissioner immediately after the effective date of this regulation an employer's status report in (~~accordance with the form~~

~~therefor furnished~~)) a format prescribed by the commissioner.

(2) **Contribution and wage reports:**

(a) **Contribution report.** Each employer shall not later than the last day of the month following the expiration of any calendar quarter file with the commissioner, (~~on forms~~) in a format which the commissioner shall (~~furnish~~) prescribe, a report with respect to such quarter setting forth the wages paid for employment to individuals in (~~his~~) its employ. Calendar quarters shall be deemed to end March 31, June 30, September 30 and December 31 respectively of each year.

(b) **Wage report.** Each employer shall not later than the last day of the month following the expiration of such calendar quarter file with the commissioner, on forms which the commissioner shall furnish, a report with respect to such calendar quarter setting forth the wages paid during such calendar quarter for employment to individuals in (~~his~~) its employ, the number of hours worked by each individual, the names of such individuals and their social security account numbers. Exceptions to the foregoing provisions (2)(a) and (b) relative to the time and manner of reporting shall be allowed only after application has been made requesting exceptions and the application has been approved by the commissioner.

(c) **Termination of business.** Each employer who ceases business or for any reason causes (~~his~~) its account to be closed by the department shall immediately file:

(i) A contribution report with respect to the current calendar quarter which report shall cover contributions due to the date such account is closed;

(ii) A quarterly wage report with respect to the current calendar quarter as provided in section (2)(b) of this regulation which report shall include all wages paid to the date such account is closed.

(d) Reports for maritime service.

(i) **Maritime contribution reports.** Contribution reports with respect to wages, including advances, allotments, slops, and payment in kind, such as board and lodging, earned in any pay period shall be submitted as of the calendar quarter in which any such wages in cash were actually paid or such wages in kind were furnished, except that any of such items which are unknown to the reporting office will be considered paid in the calendar quarter in which the voyage is terminated.

(ii) **Maritime wage reports.** Individual wage detail reports on wages falling within the purview of this regulation need not be filed prior to the time when reports regarding wages paid at the termination of such period must be filed; except, however, supplemental quarterly wage detail reports shall be filed whenever wages involved were actually paid in a previous calendar quarter. Such supplemental report shall be filed along with the related contribution report.

(iii) **Maritime special reports.** The employer shall, upon request of the commissioner, promptly furnish a statement of the wages of a seaman, whenever such statement is necessary in order to determine such seaman's eligibility for and rate of benefits. Such statements shall be prepared and submitted in such a manner as the commissioner may in each case prescribe.

(3) **Report of circumstances of applicant's separation from employment.** Whenever an individual files an

application for an initial determination or thereafter lapses his or her reporting at the local office and later renews such reporting following intervening employment, a notice of such filing or renewal shall be mailed to the applicant's most recent employing unit as stated by the applicant. Any employing unit receiving such a notice and having knowledge of any factors which might render the applicant ineligible for waiting period credit or benefits shall report such factors to the employment security department at the address indicated on the notice within ten days of the date of mailing of such notice. The absence of the receipt of the employing unit's report within the ten day period shall be deemed to justify allowances to the applicant of waiting period credit and the payment of benefits, provided the applicant is in all respects eligible.

In the event that information reported by an employing unit, in response to either of the notices required herein, is claimed by the employing unit to require disqualification from allowance of waiting period credit or payment of benefits, a determination of benefit rights will be made and a copy of such determination mailed to the employing unit.

(4) **Low earnings report.** When requested to do so by an authorized representative of the commissioner any person or entity for whom personal services are performed by individuals working less than full time during a "week" as defined in WAC 192-12-020 with resulting loss of earnings, to wit: Less than the maximum weekly benefit amount established by law, shall thereafter file with the nearest employment office, ~~((upon forms furnished))~~ in a format prescribed by the commissioner, a report of low earnings with respect to such individuals for all weeks designated in the request.

(5) **Labor dispute report.** When any person or entity for whom personal services are performed has substantially curtailed or stopped operation by reason of a labor dispute or should such person or entity have reason to believe that such substantial curtailment or stoppage is due to a labor dispute, it shall advise the nearest employment office in writing of the date of the commencement of such substantial curtailment or stoppage of operations and upon the demand of the commissioner shall furnish, upon forms furnished by the commissioner, a report setting out the conditions under which such substantial curtailment or stoppage of operations occurred, together with the names, social security account numbers and job classifications of the individuals involved. Changes in the condition under which the labor dispute arose or in the status of any such individuals, occurring during the course of the dispute, shall be reported in the same manner.

Subsequent to the termination of the labor dispute, such person or entity shall advise the nearest employment service office in writing of the date of the termination of the labor dispute.

(6) **Vacation reports.** Each employer temporarily ceasing or substantially curtailing operations in order to allow a vacation period for individuals in its employ pursuant to an employment contract shall seven days prior to cessation or substantial curtailment of operations file with the nearest employment office a report giving the date of commencement and duration of the vacation period and shall further, upon the demand of the commissioner, furnish a report setting forth (a) the name of each individual ceasing work by reason of such cessation or curtailment of opera-

tions; (b) ~~((his))~~ each individual's Social Security account number; (c) the amount of wages or remuneration, if any, paid or payable to each individual for the vacation period; and (d) the identity of such individuals who have been or will be granted vacations during some other period.

(7) **Report form instructions.** All instructions ~~((con-tained on any report form))~~ issued by the employment security department for the preparation of forms or formats shall have the same force and effect as if such instructions had been incorporated into and made a part of this regulation.

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

AMENDATORY SECTION [(Amending Order 1-78, filed 8/14/78)]

WAC 192-12-150 Payment of benefits to partially unemployed persons and stand-by workers as provided by RCW 50.04.310, 50.20.010, and 50.20.130. ~~((RCW 50.20.130 provides: ". . . Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his weekly benefit amount less seventy five percent of that part of the remuneration (if any) payable to him with respect to such week which is in excess of five dollars. . . ."~~

~~RCW 50.20.010 provides: "An unemployed individual shall be eligible to receive waiting period credit or benefits with respect to any week only if the commissioner finds that "(1) he has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title; . . ."~~

~~RCW 50.04.310 provides: "An individual shall be deemed to be 'unemployed' in any week during which he performs no services and with respect to which no remuneration is payable to him, or in any week of less than full-time work, if the remuneration payable to him with respect to such week is less than his weekly benefit amount. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary."~~

~~RCW 50.12.010 provides: "The commissioner shall administer this title. He shall have the power and authority to adopt, amend, or rescind such rules and regulations, . . . as he deems necessary or suitable to that end. . . ."~~

~~The commissioner accordingly prescribes:))~~

(1) **Definitions.**

(a) The term "employer" as used in this regulation shall mean any person or entity for whom personal services are performed for wages.

(b) A partially unemployed individual is one who during a particular week earned some remuneration but less than his or her weekly benefit amount, was employed by his or her

regular employer and worked less than his or her normal customary full hours for such regular employer because of lack of full-time work.

(c) With respect to a partially unemployed individual whose remuneration is paid on a calendar week basis, a week of partial unemployment shall consist of the calendar week.

(d) With respect to partially unemployed individuals whose pay periods do not coincide with calendar weeks, remuneration earned during such pay periods may, if not allocated by the employer, be allocated by a representative of the commissioner directly from the employer's payroll records or from certified earnings reports from the employer to each calendar week during which such remuneration was earned.

(e) A "stand-by" worker is an individual who is totally unemployed, but who expects to resume work with his or her regular employer within a reasonable time and whose best interests and those of ~~((his))~~ the individual's regular employer are served, in the judgment of the commissioner, by ~~((his))~~ the individual remaining in readiness to resume such work.

(2) Employer responsibility in the initiation of first claim for partial benefits in a new spell of partial unemployment.

(a) Immediately after the termination of any week beginning a new spell of partial unemployment in which an employer has furnished any individual in ~~((his))~~ its employ less than such individual's customary full time hours of work and earnings of less than the maximum weekly benefit amount established by law, or, if weekly benefit amount is known, earnings less than such weekly benefit amount, such employer shall either

(i) Advise the worker that he or she may be entitled to partial benefits by handing ~~((him))~~ the worker a weekly low earnings report or a substitute device for presentation at an employment office, or

(ii) Notify the local employment office nearest the establishment and await and abide by the instructions of that office concerning the taking of claims.

(3) Weekly low earnings report or substitute devices. After the employer has given notice to individuals in ~~((his))~~ its employment and/or the employment office, as required above, ~~((he))~~ the employer shall, throughout the continuance of the spell of partial unemployment, after the termination of each pay period within such spell, issue to each affected individual a weekly low earnings report showing the actual earnings of each such individual for each week of partial unemployment occurring within such pay period or shall furnish such individual with a payroll by-product. Such weekly low earnings reports or payroll by-products shall be issued by the employer not more than thirty days after the end of the week of partial unemployment to which they pertain. The payroll by-product must show in ink or typewriting:

(a) The name and official unemployment compensation code number of the employer;

(b) The name and social security account number of the individual in employment;

(c) The beginning or ending date of such week;

(d) The amount of remuneration earned in such week;

(e) The following certification: "I certify that the above amount represents reduced earnings in a week of less than full-time work because of lack of work."

(f) A signature (actual or facsimile) by the employer to the above certification, or other positive identification of the authority supplying the evidence.

In the event the local employment office furnishes a representative at the employer's establishment for the purpose of taking the claims and obtaining from the employer verification of earnings and affirmative evidence that all available work with such employer was taken by each claimant, no such low earnings report or substitute thereof shall be required.

Utilization of the payroll by-product is permissible only in the event the pay period for partial unemployment coincides with the calendar week.

(4) Registration and filing of claims for partial unemployment. An individual attached to a regular job may file a claim with respect to any calendar week during the next succeeding four calendar weeks following the receipt from the employer of information as to his or her earnings in any such week: *Provided*, That if the commissioner finds that the failure of any individual to file a claim for partial unemployment benefits within such four weeks was due to failure on the part of the employer to comply with any of the provisions of subsection (b) and (c) above of this regulation, or to coercion or to intimidation exercised by the employer to prevent the prompt filing of such claim, or to failure by the employment security department to discharge its responsibilities promptly in connection with such partial unemployment, the commissioner shall extend the period during which such claim may be filed to a date which shall be not less than one week after the individual has received appropriate notice of his or her potential rights to benefits and his or her earnings during the period of such partial unemployment.

A partially unemployed applicant for benefits who is attached to a regular job shall not be required to register for work in any week with respect to which ~~((he))~~ the applicant is partially unemployed, and prior registration shall not be a condition precedent to the filing of a claim for benefits for partial unemployment. Registration for work, initial applications, and claims for waiting period credit and benefits may be filed by mail on forms furnished by the employment security department, and given the same effect as though filed in person at an established employment security office whenever, in the judgment of the commissioner, the personal reporting of such claimant is or becomes impracticable.

(5) Registration and filing of claims by "stand-by" workers. The commissioner may waive the requirement of registration for work by a "stand-by" worker during the first four weeks of such worker's unemployment, and in such event prior registration shall not be a condition precedent to filing a claim for benefits for such four weeks. Such worker shall, however, during any calendar week for which benefits are claimed report in person, and in the next succeeding period of two calendar weeks shall make a certification with respect to the week for which benefits are claimed: *Provided*, That registration for work, initial applications, and claims for waiting period credit and benefits may be filed by mail on forms furnished by the employment security department, and given the same effect as though filed in person at an

established employment security office whenever, in the judgment of the commissioner, the personal reporting of such claimant is or becomes impracticable; and *Provided further*, That whenever failure to comply with this regulation is for reasons which, in the judgment of the commissioner, constitute good cause, the commissioner may make such exceptions to this regulation as he deems necessary.

Whether or not any claimant shall be determined by the commissioner to be in a "stand-by" status shall depend upon the length of the prospective period of unemployment, the availability of other suitable work, the temporary or permanent nature of the new prospective employment, the effect upon the employer and the worker of acceptance of new employment, the nature of the contract to be entered into by the worker in prospective new employment, and such other factors as the commissioner deems pertinent.

(6) Employer records in connection with partial unemployment. Each employer shall maintain its payroll records in such form that it will be possible from an inspection thereof by the employment security department to determine with respect to each individual in its employ who may be eligible for partial benefits: (a) Remuneration earned, by weeks, in such manner as to make possible and practical the allocating to calendar weeks of remuneration earned if the pay period does not coincide with calendar weeks; (b) whether any week was in fact a week of less than full-time work; and (c) time lost, if any, by each such worker, due to his or her unavailability for work.

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

AMENDATORY SECTION [(Amending Order 6-82, filed 8/17/82)]

WAC 192-16-036 Interpretive regulation—Requalification for regular shareable, extended, or additional benefits under RCW 50.20.050(4). (~~RCW 50.22.020(7) provides that individuals cannot requalify for regular shareable or extended benefits unless such requalification is based upon employment subsequent to the date of the disqualifying separation.~~

~~RCW 50.22.100(3) provides that eligibility for additional benefits shall be determined and paid under the same terms and conditions as extended benefits.)~~

An individual disqualified under RCW 50.20.050(4) who has requalified on the basis of reporting for ten weeks will not be eligible for regular shareable, extended, or additional benefits unless such an individual has, subsequent to the disqualifying separation, performed work in each of five weeks earning not less than his or her suspended weekly benefit amount in each of such weeks. This requirement shall not apply to weeks of unemployment exempted by RCW 50.22.020.

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

AMENDATORY SECTION [(Amending Order 6-82, filed 8/17/82)]

WAC 192-16-040 Interpretive regulation—Good prospects of obtaining work within a reasonably short period of time under RCW 50.22.020(3)—Shareable, extended, or additional benefits. As provided in (~~For the purpose of~~) RCW 50.22.020(~~(3)~~), an individual shall be deemed to have a good prospect for work within a reasonably short period of time if said individual has (1) a definite recall or hire date, within five weeks, or (2) a probable recall or hire date within five weeks, based on an extremely favorable position on a union out-of-work list, seasonal factors, or historical experience. This provision shall not apply to any week of unemployment specifically exempted by the statute.

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

AMENDATORY SECTION [(Amending Order 6-82, filed 8/17/82)]

WAC 192-16-042 Interpretive regulation—Failure to apply for or accept work under RCW 50.22.020 (4)(b)—Shareable, extended, or additional benefits. (~~RCW 50.22.020(4) provides, in part:~~

~~"Extended compensation shall not be denied under subsection (1)(a) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if: . . . (b) The position was not offered to such individual in writing and was not listed with the employment security department";~~

~~This section means that)~~ As provided in RCW 50.22.020, a person will be disqualified from receiving extended, shareable, or additional benefits for failure to accept or apply for suitable work (~~as defined in RCW 50.22.020(3);~~) if the job at issue was either offered to the person in writing or was listed with the employment security department and the other requirements of (~~that subsection~~) the statute have been met. This regulation shall not apply to any week of unemployment exempted by the statute.

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

AMENDATORY SECTION [(Amending Order 6-82, filed 8/17/82)]

WAC 192-16-045 Interpretive regulation—Disqualification for failing to accept an offer of or to apply for suitable work—Shareable, extended, or additional benefits. (1) If, during a week for which an individual has claimed regular shareable, extended, or additional benefits, he or she fails to accept any offer of work or fails to apply for any work to which he or she was referred by the employment security department:

(a) Such individual will be disqualified from benefits under the terms of RCW 50.20.080 if the work was "suitable" under the provisions of RCW 50.20.100 and RCW 50.20.110 and if the individual's failure was without "good cause";

(b) Such individual, if disqualified from benefits under RCW 50.20.080 as provided in subparagraph (a) above, will further be disqualified from regular shareable, extended, and additional benefits (~~under~~) as provided by RCW 50.22.020 (~~((1)(a) and (2) unless this additional disqualification is precluded by RCW 50.22.020(4))~~);

(c) Such individual may be disqualified from (~~regular shareable or extended~~) benefits under only the provisions of RCW 50.22.020 (~~((1)(a) and (2))~~) if (~~the work was not "suitable" under~~) the provisions of RCW 50.20.100 and RCW 50.20.080 have been met (~~or if the individual had "good cause" in refusing the work~~).

(2) This regulation shall not apply to any week of unemployment exempted by RCW 50.22.020.

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

AMENDATORY SECTION [(Amending Order 6/82, filed 8/17/82)]

WAC 192-16-047 Interpretive regulation— Interpretation of requirements of RCW 50.22.020(5)— Tangible evidence of a systematic and sustained effort to obtain work—Shareable, extended, or additional benefits. Work search efforts for individuals claiming shareable and extended benefits must be of a quality and frequency that would clearly indicate that the individual is making sincere efforts to immediately return to gainful employment.

The completed work search section of the continued claim form which includes the date of work seeking contact, the name of the employer or union involved, and the type of work sought will be considered as tangible but not conclusive evidence of a systematic and sustained effort to obtain work.

An individual engaged in a training program approved by the commissioner in accordance with the requirements of 26 U.S.C. § 3304(a)(8), WAC 192-12-182, and 192-12-184 will be deemed to meet the requirements of RCW 50.22.020(5).

This regulation shall not apply to any week of unemployment exempted by RCW 50.22.020.

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

AMENDATORY SECTION [(Amending Order 4-84, filed 6/18/84)]

WAC 192-23-320 Failure to respond to a request for documentation of a systematic and sustained work search. As provided in RCW 50.22.020: (1) If a claimant is receiving shareable or extended benefits and fails to report a systematic and sustained work search and fails to respond to a request to provide work search information, the claimant shall be presumed to have failed to actively engage in seeking work and be subject to denial of benefits (~~(pursuant to RCW 50.22.020 (1) and (2))~~).

(2) The denial of benefits under this section is indefinite in nature and shall continue until the requalifying provisions (~~(of RCW 50.22.020(2))~~) are met.

(3) This regulation shall not apply to any week of unemployment exempted by the statute.

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

REPEAL

WAC 192-10-320.

WSR 94-14-076

PREPROPOSAL STATEMENT OF INTENT SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed July 5, 1994, 10:55 a.m.]

Specific Statutory Authority for New Rule: RCW 28A.150.290.

Reasons Why the New Rule is Needed: To amend chapter 392-141 WAC to increase accountability and accuracy in school district reporting for funding purposes. These changes are in cooperation with the state auditor and their overall audit plan, and ESSB 6244 passed by the 1994 legislature.

Goals of New Rule: Provides for more accountability in the accuracy and completeness of transportation ridership reports used for funding purposes, and provides an audit trail for state auditors.

Process for Developing New Rule: Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

How Interested Parties can Participate in Formulation of the New Rule: For telephone assistance contact Don Carnahan, Director, (206) 753-0235. Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-7200, FAX (206) 753-4201, TDD (206) 664-3631.

July 1, 1994
Judith A. Billings
Superintendent of
Public Instruction

WSR 94-14-077

PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed July 5, 1994, 12:28 p.m.]

Specific Statutory Authority for New Rule: Administrative Notice 94-53, Administrative Notice 94-30, CFR 273.21(i), RCW 74.04.050.

Reasons Why the New Rule is Needed: As required by federal regulations, eligible food stamp households shall be offered a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting verification on actual expenses on a monthly basis. This is an issue that has been supported by Evergreen Legal Services. Secondly, federal regulations allow state agencies to designate items to be verified for monthly reporting households. There is no requirement that monthly reporting households are required to verify change in citizenship status.

Goals of New Rule: Provides a simplified means for eligible food stamp households to claim excess medical expenses. Adds the requirement to verify incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction at food stamp certifications. Medical expense verification will no longer be required for monthly reporting households. Deletes requirement to verify change in citizenship for monthly reporting households.

Process for Developing New Rule: Internal (management) and external (field staff) review process whereby draft material is distributed for review and comment. All comments are taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Contact Diana Arnaud, Program Manager, Food Stamp Program Section, Division of Income Assistance, Mailstop 45400, phone 438-8318 (SCAN 585), FAX 438-8258 (SCAN 585).

July 5, 1994
Dewey Brock, Chief
Office of Vendor Services

WSR 94-14-078
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
FISH AND WILDLIFE
[Filed July 5, 1994, 2:13 p.m.]

Specific Statutory Authority for New Rule: RCW 75.08.080, 75.30.220.

Reasons Why the New Rule is Needed: The department has evidence that the unrestricted trawl of bottomfish in Puget Sound has affected the stocks of rock fish and other species. The department is attempting to ascertain if designation of this fishery as an emerging commercial fishery with an experimental fishery permit requirement is needed to preserve stocks and reduce effort.

Goals of New Rule: Conserve rock fish stocks in Puget sound.

Process for Developing New Rule: Agency study; and convening an emerging commercial fishery advisory review board as provided for in RCW 75.30.220.

How Interested Parties can Participate in Formulation of the New Rule: Invitations to participate on the emerging commercial fishery advisory review board are currently being offered to representatives of the affected fishery industry to receive an application or to provide preliminary comments on rule development, contact Greg Bargmann, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 902-2944.

July 1, 1994
Evan S. Jacoby
Rules Coordinator

WSR 94-14-079
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
FISH AND WILDLIFE
[Filed July 5, 1994, 2:15 p.m.]

Specific Statutory Authority for New Rule: RCW 75.08.080.

Reasons Why the New Rule is Needed: The department needs to respond to specific salmon management concerns in the Dosewallips, Elochoman, Palix, and Sammamish rivers, and in Lakes Sammamish, Union (including the Lake Washington Ship Canal) and Washington. Additionally, the department seeks to clarify certain recreational rules for harvest of hardshell clams, fishing at the Edmonds pier and marine park, use of multiple rods and importation of Canadian salmon.

Goals of New Rule: Preservation of salmon stocks and clarification of sport fishing rules.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: To comment on salmon proposals contact Keith Wolfe, 600 Capitol Way North, Olympia, WA 98101-1091 [98501-1091], FAX (206) 902-2980. To comment on hardshell clam and Edmonds proposals, contact Morris Barker, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 902-2944.

June 29, 1994
Evan Jacoby
Rules Coordinator

WSR 94-14-083
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY
[Order 94-17—Filed July 5, 1994, 3:50 p.m.]

Specific Statutory Authority for New Rule: RCW 70.94.650 requires a permit program for agricultural burning; a permit fee set by the agricultural burning practices and research task force and adopted by rule.

Reasons Why the New Rule is Needed: To incorporate changes to RCW 70.94.650. An interim permit program, that expires January 1, 1995, is in place, while the regulation is under development.

Goals of New Rule: Establishing a permit program with minimum statewide requirements; providing for implementation of a research program to identify economical and practical alternatives to agricultural burning; encouraging the use of economically feasible alternative methods to agricultural burning; distinguishing between agricultural burning and other types of burning; and providing for local administration of the permitting program through delegation.

Process for Developing New Rule: This rule is being developed through the guidance of the agricultural burning practices and research task force, and an advisory committee.

How Interested Parties can Participate in Formulation of the New Rule: For further information contact Melissa McEachron, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6862, SCAN 407-6862, FAX (206) 407-6802, SCAN 407-6802.

July 5, 1994
D. J. Patin
Assistant Director

WSR 94-14-084
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY

[Filed July 5, 1994, 3:56 p.m.]

Specific Statutory Authority for New Rule: Chapter 70.95J RCW, Municipal sewage sludge—Biosolids, RCW 70.95J.020 Biosolids management program, directs ecology to adopt rule to implement a biosolids management program. Chapter 70.95 RCW, Solid waste management—Reduction and recycling, RCW 70.95.255 Disposal of sewage sludge or septic tank sludge prohibited, directs ecology, in conjunction with the Departments of Health and Agriculture, to establish labeling and notification requirements for sludge material solid commercially or given away to the public.

Reasons Why the New Rule is Needed: Ecology is mandated by statute to promulgate this rule and develop a new program for biosolids management; the state's current program for municipal sewage sludge management is outdated and in need of revision; and promulgation of this rule will allow the state to meet new federal (EPA) requirements.

Goals of New Rule: Meet legislative mandate in RCW 70.95J.005 which directs ecology to establish a program that maximizes the beneficial use of municipal sewage sludge while protecting human health and the environment; provide opportunity for local government and the regulated community to operate under a uniform system of management and regulation; provide for a more efficient and orderly system of biosolids management in Washington state; and enable the state program to recognize emerging technologies in the area of biosolids management, and to maintain flexibility in the regulation of biosolids.

Process for Developing New Rule: Consultative. We are working with an advisory committee of approximately forty persons representing a cross-section of interests including the regulated community, local governments, and other state agencies.

How Interested Parties can Participate in Formulation of the New Rule: Primary contact Kyle Dorsey, (206) 407-6107, FAX (206) 407-6102. Attend workshops on the draft rule, workshops have not yet been scheduled but are anticipated in the fall of 1994; attend formal hearings on the proposed rule, hearings have not yet been scheduled but will follow workshops; and interested parties may have their names placed on a mailing list for periodic notification of milestones and opportunities to comment or attend workshops. Contact Gloria Scott at (206) 407-6108, FAX (206) 407-6102.

July 5, 1994
Dan Silver
Assistant Director
Office of Waste Management

WSR 94-14-094
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE

[Filed July 6, 1994, 9:48 a.m.]

Specific Statutory Authority for New Rule: RCW 15.32.110 as recodified by chapter 143, Laws of 1994.

Reasons Why the New Rule is Needed: To establish expiration/renewal dates for new milk processing plant license as required under RCW 15.32.110 as recodified by chapter 143, Laws of 1994.

Goals of New Rule: Establish renewal/expiration date for new milk processing plant license as required by new statute.

Process for Developing New Rule: Minimal public input, noncontroversial, just sets renewal/expiration dates for license set by statute.

How Interested Parties can Participate in Formulation of the New Rule: Vern Hedlund, Washington Department of Agriculture, Food Safety and Animal Health Division, P.O. Box 42560, Olympia, WA 98504-2560, phone (206) 902-1860, FAX (206) 902-2087.

July 6, 1994
John Daly
Assistant Director

WSR 94-14-095
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY

[Order 94-23—Filed July 6, 1994, 10:02 a.m.]

Specific Statutory Authority for New Rule: General statutory authority is chapter 70.94 RCW. RCW 70.94.510 directs ecology to secure to the state the benefits of the Federal Clean Air Act. RCW 70.94.161 (2)(a) directs ecology to develop an air quality program consistent with that of the federal government.

Reasons Why the New Rule is Needed: This rule is needed to maintain the authority to regulate acid rain sources in Washington, which has already adopted the Title V (air operating permit) program. The EPA requires Washington to adopt the Title IV (acid rain reduction) or have its Title V program revoked and federal sanctions imposed, which include withholding of federal highway funds and 2:1 offsets for new sources of air pollution.

Goals of New Rule: The goal of the new rule is to reduce the emissions to the atmosphere of sulfur dioxide to about one-half of the 1980 emissions levels, a reduction of over 30,000 tons per year in Washington.

Process for Developing New Rule: This rule is being developed from the EPA model state acid rain rule. A combination of workshops, public hearings and direct contact with the three affected sources is being used to develop this rule.

How Interested Parties can Participate in Formulation of the New Rule: Contact Larry Stookey at (206) 574-3058 ext. 24 or Tony Warfield at (206) 407-6892 for additional information. Public workshops will be held at the Centralia Public Library (110 South Silver) on July 12, in Spokane at Ecology's Eastern Regional Office, (North 4601 Monroe) on July 14 and in Bellevue at Ecology's Northwest Regional

Office (3190 160th Avenue S.E.) on July 18, 1994, at 1:00 p.m. Public hearings will be held early in September 1994.

July 6, 1994

D. J. Patin

Assistant Director

WSR 94-14-096

**PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES**

[Filed July 6, 1994, 10:05 a.m.]

Specific Statutory Authority for New Rule: Chapter 74.29 RCW (revised 12/1993).

Reasons Why the New Rule is Needed: Update language in chapter 490-500 WAC to make consistent with 1992 amendments to the Rehabilitation Act.

Goals of New Rule: Provide clear, concise language consistent with 1992 amendments to the Rehabilitation Act.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Peter R. Janni, Assistant Director, Division of Vocational Rehabilitation, Mailstop 45340, Olympia, Washington 98504-5340, 438-8012; and Vi Moody, Administrative Assistant, Division of Vocational Rehabilitation, Mailstop 45340, Olympia, Washington 98504-5340, 438-8025.

July 6, 1994

Dewey Brock, Chief

Office of Vendor Services

WSR 94-14-097

**PREPROPOSAL STATEMENT OF INTENT
GRAYS HARBOR COLLEGE**

[Filed July 6, 1994, 10:17 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.50.140(13).

Reasons Why the New Rule is Needed: Deletes references to Title IX discrimination, which are the subject of other rules. The dean of students replaces the Title IX/handicap officer at the college.

Goals of New Rule: Modernize existing rule to correct legal references and the identity of grievance personnel.

Process for Developing New Rule: The college is the proponent of these rule changes.

How Interested Parties can Participate in Formulation of the New Rule: The person responsible for drafting these rule changes is Dale Johnson, Vice-President for Administration, Grays Harbor College, Building 200, 1620 Edward P. Smith Drive, Aberdeen, WA 98520, (206) 532-9020. He may be contacted respecting anticipated hearing dates and to provide other information respecting the rule.

June 28, 1994

Dr. Jewell C. Manspeaker
President

WSR 94-14-098

**PREPROPOSAL STATEMENT OF INTENT
GRAYS HARBOR COLLEGE**

[Filed July 6, 1994, 10:18 a.m.]

Specific Statutory Authority for New Rule: RCW 28B.50.140(13).

Reasons Why the New Rule is Needed: Identifies grievance procedures for employees, applicants for employment, enrolled students, and applicants for admission to file a formal complaint based upon sex discrimination or sexual harassment.

Goals of New Rule: To establish rules governing the filing of grievances based on sex discrimination and sexual harassment.

Process for Developing New Rule: The college is the proponent of these rule changes.

How Interested Parties can Participate in Formulation of the New Rule: The person responsible for drafting these rule changes is Dale Johnson, Vice-President for Administration, Grays Harbor College, Building 200, 1620 Edward P. Smith Drive, Aberdeen, WA 98520, (206) 532-9020. He may be contacted respecting anticipated hearing dates and to provide other information respecting the rule.

June 28, 1994

Dr. Jewell C. Manspeaker
President

WSR 94-14-104

**PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
LABOR AND INDUSTRIES**

[Filed July 6, 1994, 11:19 a.m.]

Specific Statutory Authority for New Rule: RCW 51.48.030.

Reasons Why the New Rule is Needed: At the request of the industry, to return the reporting requirements for reforestation industry to the standard quarterly reporting cycle and eliminate the premium discount portion of the program.

Goals of New Rule: To simplify reporting requirements for reforestation industry. Reduce administrative complexities for the industry and the agency. Provide reporting requirements consistent with all other industries as well as other governmental agencies.

Process for Developing New Rule: This change was requested by industry representatives at the Reforestation Advisory Committee meetings held March 18 and June 10, 1994.

How Interested Parties can Participate in Formulation of the New Rule: Mary Pat Frederick, Program Manager, Policy Management Services, P.O. Box 44140, Olympia, WA 98504-4140, phone (206) 956-4739, FAX (206) 956-4721. Additional suggestions for change to be incorporated into final draft to be filed with CR 102 package September 7, 1994. Copies of draft to be shared with industry via advisory committee. Proposed public hearing for additional comments tentatively scheduled October 25 through October 28, 1994.

July 6, 1994
Mark O. Brown
Director

WSR 94-14-105
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed July 6, 1994, 11:20 a.m.]

Specific Statutory Authority for New Rule: RCW 51.04.020.

Reasons Why the New Rule is Needed: To ensure actuarial solvency of the accident fund, medical aid fund and supplemental pension assessment fund and to ensure appropriate distribution of premiums. To set retrospective rating table values. To implement a new WAC relative to student volunteers, as outlined in legislation passed in the 1994 legislative session (HB 2891).

Goals of New Rule: To establish 1995 base rates and experience rates for over 300 industry risk classifications in order to ensure actuarial solvency of the state fund. To set retrospective rating table values. To define student volunteer—for private, for profit employers—as defined in HB 2891.

Process for Developing New Rule: Stakeholder input solicited through CR 101 notice, through CR 102 filing and with public hearings tentatively scheduled in late-October 1994.

How Interested Parties can Participate in Formulation of the New Rule: Mary Pat Frederick, Program Manager, Policy Management Services, P.O. Box 44140, Olympia, WA 98504-4140, phone (206) 956-4739, FAX (206) 956-4721. Input accepted from CR 101 filing through CR 102 filing and at public hearings tentatively scheduled for late-October 1994.

July 6, 1994
Mark O. Brown
Director

WSR 94-14-109
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed July 6, 1994, 11:54 a.m.]

Specific Statutory Authority for New Rule: RCW 18.64.005.

Reasons Why the New Rule is Needed: This new rule is needed in order to update the rules related to pharmacy licensing to meet changing technology and changes in the profession of pharmacy as a whole and the way it is practiced today.

Goals of New Rule: The goals of this new rule are to update rules to reflect the way pharmacy is practiced today with new technologies such as FAX machines, more sophisticated computer systems and better security systems and with new requirements such as Omnibus Budget Reconciliation Act of 1990 which require patient counseling by pharmacists.

Process for Developing New Rule: Agency study; and public meetings.

How Interested Parties can Participate in Formulation of the New Rule: There will be public meetings on the following dates at the following locations: On August 17, 1994, at 10:00 a.m., Cavanaugh's, 607 East Yakima Avenue, Yakima, WA; and on September 21, 1994, at 10:00 a.m., Courtyard Inn, North 401 Riverpointe, Spokane, WA. The public hearing will be held on October 27, 1994, at 2:00 p.m. at the Red Lion Inn, 818 112th Avenue N.W., Bellevue, WA. In addition, comments may be FAXed to (206) 586-4359 or mailed to Department of Health, Board of Pharmacy, 1300 Quince S.E., P.O. Box 47863, Olympia, WA 98504-7863.

July 6, 1994
Donald H. Williams
Executive Director

WSR 94-13-052
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed June 8, 1994, 10:52 a.m.]

June 8, 1994
Dewey Brock, Chief
Office of Vendor Services
Administrative Services Division

Original Notice.

Title of Rule: Chapter 388-97 WAC, Nursing homes.

Purpose: Replaces two rule chapters with a single new chapter to simplify and clarify state regulations and ensures rules are consistent with federal requirements; allows deeming Medicaid-certified facilities which meet federal requirements to meet designated state requirements. New construction requirements have been strengthened to provide and enhance resident quality of life, and allows more flexibility for alterations which benefit residents.

Statutory Authority for Adoption: RCW 18.51.070 and 74.42.620.

Statute Being Implemented: RCW 18.51.070 and 74.42.620.

Summary: Nursing home rules and regulations reflect new federal OBRA standards which place greater emphasis on resident rights, dignity and choice, and residence in a home-like environment. Conflicts and duplication with other state and federal requirements are eliminated. The federal regulatory structure is followed to allow Medicaid-certified facilities meeting federal requirements to be deemed to meet specified state requirements. There are a very few new requirements and these are designed to be cost neutral for the 294 Medicaid-certified facilities.

Reasons Supporting Proposal: Major rewrite of nursing home regulations into a new chapter to simplify and clarify state regulations and ensure they are consistent with federal requirements.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Fay Helmon, 438-8978, and Judy Johnson, 493-2626, Aging and Adult Services Administration.

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

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

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

Proposal Changes the Following Existing Rules: See above.

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

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on August 23, 1994, at 10:00 a.m.

If you need sign language assistance, please contact the Office of Vendor Services by August 9, 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, WA 98504, TELEFAX 586-8487 or SCAN 321-8487, by August 16, 1994.

Date of Intended Adoption: August 25, 1994.

Chapter 388-97 WAC
NURSING HOMES

SUBCHAPTER I
LICENSE AND OPERATIONS
DEFINITIONS

NEW SECTION

WAC 388-97-005 Definitions. (1) "Advanced registered nurse practitioner (ARNP)" means a registered nurse currently licensed in Washington under RCW 18.88.175 as now or hereafter amended.

(2) "ASHRAE" means the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc.

(3) "Attending physician" means the doctor responsible for a particular person's total medical care.

(4) "Authenticated" means the authorization of a written entry in a record by signature, including the first initial and last name and title, or a unique identifier allowing identification of the responsible person.

(5) "Berm" means a bank of earth piled against a wall.

(6) "Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms.

(7) "Dementia care" means a therapeutic modality or modalities designed specifically for the care of persons with dementia.

(8) "Department" means the state department of social and health services.

(9) "Dietitian" means a qualified dietitian. A qualified dietitian is one who is registered by the American Dietetic Association or certified by the state of Washington.

(10) "Directly supervising" means the supervising person is on the premises and is quickly and easily available to provide necessary:

- (a) Assessments and other direct care of residents; and
- (b) Oversight of supervised staff.

(11) "Disclosure statement" means a signed statement by a person indicating whether or not the person was found by any court, state licensing board, disciplinary board, or protection proceeding to have neglected, sexually abused, financially exploited, or physically abused any minor or adult person.

(12) "Drug" means a substance:

(a) Recognized as a drug in the official *United States Pharmacopoeia*, *Official Homeopathic Pharmacopoeia of the United States*, *Official National Formulary*, or any supplement to any of them; or

(b) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(13) "Drug facility" means a room or area designed and equipped for drug storage and the preparation of drugs for administration.

(14) "Habilitative services" means the planned interventions and procedures which constitute a continuing and

PROPOSED

comprehensive effort to teach a person previously undeveloped skills.

(15) "Intermediate care facility for the mentally retarded (ICF/MR)" means an institution certified under chapter 42 C.F.R., Part 483, Subpart I.

(16) "Lavatory" means a handwashing sink.

(17) "Licensed practical nurse" means a person licensed under chapter 18.78 RCW;

(18) "NFPA" means National Fire Protection Association, Inc.

(19) "Nursing assistant" means a person defined under RCW 18.88A.020 as now or hereafter amended.

(20) "Nursing facility (NF)" or "Medicaid-certified nursing facility" means a facility that is certified under Section 1919, 42 U.S.C. 1396r, subsections (b), (c), and (d) of the federal Social Security Act and regulations promulgated thereunder.

(21) "Nursing home" means any facility licensed to operate under chapter 18.51 RCW.

(22) "Pharmacist" means a person licensed by the Washington state board of pharmacy under chapter 18.64 RCW.

(23) "Pharmacy" means a place licensed under chapter 18.64 RCW where the practice of pharmacy is conducted.

(24) "Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that the resident cannot remove easily, and which restricts freedom of movement or access to the resident's body.

(25) "Physician's assistant (PA)" means a person defined under chapter 18.57A or 18.71A RCW, as now or hereafter amended.

(26) "Registered nurse" means a person licensed under chapter 18.88 RCW, as now or hereafter amended.

(27) "Rehabilitative services" means the planned interventions and procedures which constitute a continuing and comprehensive effort to restore a person to the person's former functional and environmental status, or alternatively, to maintain or maximize remaining function.

(28) "Resident" means a person residing in a nursing home. The term resident excludes outpatients and persons receiving adult day or night care, or respite care.

(29) "Resident care unit" means a functionally separate unit including resident rooms, toilets, bathing facilities, and basic service facilities.

(30) "Respiratory isolation" is a technique or techniques instituted to prevent the transmission of pathogenic organisms by means of droplets and droplet nuclei coughed, sneezed, or breathed into the environment.

(31) "Siphon jet clinic service sink" means a plumbing fixture of adequate size and proper design for waste disposal with siphon jet or similar action sufficient to flush solid matter of at least two and one-eighth inches in diameter.

(32) "Skilled nursing facility (SNF)" or "Medicare-certified skilled nursing facility" means a facility that is certified under Section 1819, 42 U.S.C. 1395i-3, subsections (b), (c), and (d) of the federal Social Security Act and regulations promulgated thereunder.

(33) "Social/therapeutic leave" means leave which is for the resident's social, emotional, or psychological well being; it does not include medical leave.

(34) "Staff work station" means a location at which nursing and other staff perform charting and related activities throughout the day.

(35) "Toilet room" means a room containing at least one toilet fixture.

(36) "Volunteer" means a person who is a regularly scheduled person not receiving payment for services and having unsupervised access to a nursing home resident.

NURSING HOME LICENSE

NEW SECTION

WAC 388-97-010 License—Application. (1) All applications for nursing home licensure are subject to review under this chapter.

(2) An application for a new nursing home license must be submitted at least sixty days prior to the effective date of that license. The license must be renewed annually. The date of renewal is not changed by a change of ownership. License renewals must be submitted at least thirty days prior to the license's expiration date. Nursing home license applications and requests for renewal shall be made on forms designated by the department.

(3) The nursing home license applicant shall be the person or entity responsible for the daily operation of the nursing home. The license applicant or the applicant's authorized representative shall sign the nursing home license application or renewal thereof, and swear to that application before a notary public.

(4) The department shall not commence review of an incomplete license application.

(5) The department shall deny a nursing home applicant a license if the applicant fails to:

(a) Provide any authorization, documentation, or information the department requires in order to verify information contained in the application; or

(b) Verify additional information the department deems relevant to the application.

(6) When the department determines that additional information is needed to process the application, the applicant shall respond to the department's request for information in a timely fashion.

(7) The nursing home license application shall include, but not be limited to the following information:

(a) The name and address of the applicant and any partner, officer, director, managerial employee, or owner of five percent or more of the applicant;

(b) The name of the persons under whose management or supervision the home will be operated;

(c) The specific location and the mailing address of the facility for which a license is sought;

(d) The number of persons for which nursing home care is to be provided;

(e) The name and address of all nursing homes that the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with in the past ten years; and

(f) Such other information as the department may reasonably require for proper administration of these standards.

NEW SECTION

WAC 388-97-015 License—Qualification. (1) The department shall consider separately and jointly as applicants each person and entity named in an application for a nursing home license. If the department finds any person or entity unqualified, the department shall deny the license.

(2) In making a determination whether to grant a nursing home license, the department shall review:

- (a) The information contained in the application; and
- (b) Other documents the department deems relevant, including survey and complaint investigation findings in each facility the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with during the past ten years.

(3) The applicant and the facility for which the license is sought shall comply with all requirements established by chapters 18.51 and 74.42 RCW and rules adopted thereunder. The department may deny a license for noncompliance with any such requirements.

(4) The department may deny a license if the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has a history of significant noncompliance with federal or state regulations in providing nursing home care. In determining whether there is a history of significant noncompliance with federal or state regulations, the department at a minimum may consider:

(a) Whether the violation resulted in a significant harm or a serious and immediate threat to the health, safety, or welfare of any resident;

(b) Whether the applicant promptly investigated the circumstances surrounding any violation and took steps to correct and prevent a recurrence of a violation;

(c) The history of surveys and complaint investigation findings and any resulting enforcement actions;

(d) Repeated failure to comply with regulations;

(e) Inability to attain compliance with cited deficiencies within a reasonable period of time; and

(f) The number of violations relative to the number of facilities the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with in the past ten years.

(5) The department may deny a license if an applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has:

(a) A poor credit history;

(b) Engaged in the illegal use of drugs or the excessive use of alcohol;

(c) Unlawfully operated without a license; or

(d) Had revoked or suspended a license to operate a hospital or facility for the care of children, or adults who are developmentally disabled, aged, ill, or infirm.

(6) The department may deny, suspend, revoke, or refuse to renew a license if the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has:

(a) Obtained or attempted to obtain a license by fraudulent means or misrepresentation;

(b) Permitted, aided, or abetted the commission of any illegal act on the nursing home premises;

(c) Failed to meet financial obligations as the obligations fall due in the normal course of business;

(d) Been convicted of a felony or a crime against a person if the conviction reasonably relates to the competency of the person to own or operate a nursing home, and who, the department determines, is not sufficiently rehabilitated to warrant public trust; or

(e) Misappropriated property of residents.

(7) The department shall deny, suspend, revoke, or refuse to renew a license if the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been:

(a) Convicted of a crime against a person as defined under RCW 43.43.830;

(b) Convicted of a crime related to financial exploitation as defined under RCW 43.43.830;

(c) Found by a court in a protection proceeding under chapter 74.34 RCW to have abused or financially exploited a vulnerable adult;

(d) Found in any final decision issued by a disciplinary board to have sexually or physically abused or exploited any minor or a person with a developmental disability or to have abused or financially exploited any vulnerable adult;

(e) Found in any dependency action under RCW 13.34.030 (2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor; or

(f) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor.

NEW SECTION

WAC 388-97-020 Nursing home fees. (1) The nursing home license fee is one hundred twenty-seven dollars per bed per year. The fee shall be nonrefundable. The licensee shall submit the annual license fee to the department at the time of renewal.

(2) A change of nursing home ownership does not change the date of license renewal and fee payment.

NEW SECTION

WAC 388-97-025 License capacity. (1) A nursing home shall not be licensed for a capacity that exceeds the number of beds:

(a) Permitted under these regulations;

(b) Permitted under chapter 70.38 RCW and regulations thereunder;

(c) Permitted under applicable local zoning, building or other such regulations; or

(d) Actually available for resident use, except when the space is used for a temporary change, e.g., remodeling.

NEW SECTION

WAC 388-97-030 Change of ownership. (1) A change of ownership occurs when there is a substitution of the individual operator or operating entity ultimately responsible for the daily operational decisions of the nursing home; or a substitution of control of such operating entity.

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

(i) The form of legal organization of the operator is changed, (e.g., a sole proprietor forms a partnership or corporation);

(ii) Ownership of the nursing home business enterprise is transferred by the operator to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the facility is also transferred;

(iii) If the operator is a partnership, any event occurs which dissolves the partnership;

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

(v) If the operator is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock is transferred to one or more:

(A) New or former stockholders; or

(B) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(vi) Any other event or combination of events which results in a substitution or substitution of control of the individual operator or the operating entity.

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

(i) A party contracts with the operator to manage the nursing home enterprise as the operator's agent, i.e., subject to the operator's general approval of daily operating and management decisions; or

(ii) The real property or personal property assets of the nursing home change ownership or are leased, or a lease of the real property or personal property assets is terminated, without a substitution of individual operator or operating entity and without a substitution of control of the operating entity.

(2) When a change of ownership is contemplated, the current operator shall notify the department and all residents at least sixty days prior to the proposed date of transfer. The notice shall be in writing and shall contain the following information:

(a) Name of the present operator and prospective operator;

(b) Name and address of the nursing home being transferred; and

(c) Date of proposed transfer.

(3) The operation or ownership of a nursing home shall not be transferred until the new operator has been issued a license to operate the nursing home. The new operator shall comply with license application requirements.

NEW SECTION

WAC 388-97-035 Change in administrator or director of nursing services. The nursing home shall notify the department and each resident of a change in the nursing home's administrator or director of nursing services at the time any such change occurs.

NEW SECTION

WAC 388-97-040 Name of nursing home. The nursing home licensee shall notify the department in writing of any change in the name of the licensee at the time the change occurs.

NEW SECTION

WAC 388-97-045 License relinquishment upon closure. (1) A nursing home licensee shall relinquish its license when the nursing home ceases to do business.

(2) When a nursing home licensee fails to voluntarily relinquish its license upon closure, the department may revoke the license.

NEW SECTION

WAC 388-97-050 License denial, modification, nonrenewal, revocation. (1) The department may deny, suspend, modify, refuse to renew, or revoke a nursing home license as governed by RCW 18.51.065 and 43.20A.205.

(2) A license applicant or licensee contesting a department license decision shall file a written application for an adjudicative proceeding within twenty days of receipt of the decision.

(3) Adjudicative proceedings shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 18.51.065, RCW 43.20A.205, this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision of this chapter shall govern.

MEDICAID-CERTIFIED NURSING FACILITIES

NEW SECTION

WAC 388-97-055 Nursing facility care. A nursing facility shall provide items, care, and services in accordance with this chapter and with federal regulations under 42 C.F.R. §483.1 through 483.206, as now or hereafter amended, and other applicable federal requirements.

NEW SECTION

WAC 388-97-060 Discrimination prohibited. (1) Medicaid-certified nursing facilities in compliance with federal requirements under 42 C.F.R. §483.12 (c) and (d), will be deemed to meet subsections (2) and (3) of this section.

(2) A NURSING FACILITY SHALL ESTABLISH AND MAINTAIN IDENTICAL POLICIES AND PRACTICES REGARDING TRANSFER, DISCHARGE, AND THE PROVISION OF SERVICES UNDER THE STATE PLAN FOR ALL PERSONS REGARDLESS OF SOURCE OF PAYMENT.

(3) A NURSING FACILITY MUST NOT REQUIRE;

(a) RESIDENTS OR POTENTIAL RESIDENTS TO WAIVE THEIR RIGHTS TO MEDICARE OR MEDICAID;

(b) ORAL OR WRITTEN ASSURANCE THAT RESIDENTS OR POTENTIAL RESIDENTS ARE NOT ELIGIBLE FOR, OR WILL NOT APPLY FOR MEDICARE OR MEDICAID BENEFITS; AND

(c) A THIRD PARTY GUARANTEE OF PAYMENT TO THE FACILITY AS A CONDITION OF ADMISSION OR EXPEDITED ADMISSION, OR CONTINUED STAY IN THE FACILITY. HOWEVER, THE FACILITY MAY REQUIRE A PERSON WHO HAS LEGAL ACCESS TO A RESIDENT'S INCOME OR RESOURCES AVAILABLE TO PAY FOR FACILITY CARE TO SIGN A CONTRACT, WITHOUT

INCURRING PERSONAL FINANCIAL LIABILITY, TO PROVIDE FACILITY PAYMENT FROM THE RESIDENT'S INCOME OR RESOURCES.

(4) A nursing facility shall inform, in writing, a prospective resident, and where applicable, the resident's representative, before or at the time of admission, that a third party may not be required to personally guarantee payment to the nursing home, as specified in subsection (3)(c) of this section.

(5) A nursing facility shall not:

(a) Deny or delay admission or readmission of a person to the facility because of the person's status as a Medicaid recipient;

(b) Transfer a resident, except from a private room to another room within the facility, because of the resident's status as a Medicaid recipient;

(c) Discharge a resident from a facility because of the resident's status as a Medicaid recipient; or

(d) Charge any amounts in excess of the Medicaid rate from the date of eligibility, except for any supplementation permitted by the department pursuant to RCW 18.51.070.

(6) A nursing facility shall maintain one list of names of persons seeking admission to the facility, which is ordered by the date of request for admission. The facility shall retain the list of persons seeking admission for one year from the month admission was requested.

(7) A nursing facility shall develop and implement written policies and procedures to ensure nondiscrimination in accordance with this section and RCW 74.42.055.

NEW SECTION

WAC 388-97-065 Medical eligibility for nursing facility care. A person medically eligible for nursing facility care is one whose functional level requires services that must be provided by or under the supervision of a registered nurse or a licensed practical nurse on a daily basis. Nursing facility care includes therapeutic services directed toward rehabilitation/discharge or toward maintaining the resident's highest practicable level of independence. These services involve more than just supervision, protection, and assistance with personal care.

NEW SECTION

WAC 388-97-070 Nursing facility placement. (1) A nursing facility shall not admit any person unless an identification screen is completed as required under WAC 388-97-075, Preadmission screening.

(2) A person identified as having a serious mental illness or a developmental disability, as defined under 42 C.F.R. §483.102, as now or hereafter amended, shall be assessed under WAC 388-97-075, Preadmission screening, before the person's admission to a nursing facility.

(3) A Medicaid applicant or recipient shall not be admitted to a nursing facility unless the department has assessed and determined the person is medically eligible for nursing facility care as defined under WAC 388-97-065, Medical eligibility for nursing facility care.

(4) The department shall not:

(a) Pay for nursing facility services for a Medicaid applicant or recipient until the department has authorized such services; and

(b) Authorize retroactive payment for any Medicaid applicant or recipient admitted to a nursing facility in violation of this section.

NEW SECTION

WAC 388-97-075 Pre-admission screening. (1) The referring hospital, physician, or other referral source or the nursing facility shall:

(a) Screen a person requesting admission to a nursing facility before admission to identify whether the person may have a serious mental illness or a developmental disability as defined under 42 C.F.R. §483.102, as now or hereafter amended; and

(b) Perform the identification screen using a standardized department-specified form.

(2) A nursing facility shall ensure that a person identified through the identification screen as likely to have a serious mental illness or a developmental disability is not admitted to a Medicaid-certified nursing facility unless the person has been:

(a) Assessed under the preadmission screening and annual resident review (PASARR) as described under WAC 388-97-085;

(b) Transferred from one nursing facility to another nursing facility; or

(c) Exempted by the department from PASARR because the person:

(i) Has been admitted to the nursing facility for respite care under WAC 388-97-280, Respite services;

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

(iii) Has been readmitted to a nursing facility from an acute care hospital.

NEW SECTION

WAC 388-97-080 Identification screening for current residents. (1) A nursing facility shall have a completed identification screen for each resident, to identify a resident's likelihood of having a serious mental illness or a developmental disability as defined under 42 C.F.R. §483.102, as now or hereafter amended. The nursing facility shall record this identification screening information on a department-designated form.

(2) The nursing facility shall:

(a) Record the identification screen information or subsequent changes on the resident assessment instrument according to the schedule required under 42 C.F.R. §483.20;

(b) Maintain the identification screen form and applicable PASARR assessment information in the resident's clinical record; and

(c) Refer each resident to the department or department's designee when the resident requires a PASARR assessment under WAC 388-97-085, Preadmission screening and annual resident review (PASARR).

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

NEW SECTION

WAC 388-97-085 Pre-admission screening and annual resident review (PASARR). (1) "Specialized services" for a person with mental retardation or related conditions is defined under 42 C.F.R. §483.120 (a)(2), §483.120(2), §483.440 (a)(1). These specialized services do not include services to maintain a generally independent person able to function with little supervision or in the absence of a treatment program.

(2) "Specialized services" for a person with a serious mental illness is defined under 42 C.F.R. §483.120 (a)(1). These services are generally considered acute psychiatric inpatient care, emergency respite care, or stabilization and crisis services.

(3) The department shall assess a nursing facility applicant or resident having a serious mental illness or developmental disability according to the PASARR requirements under 42 C.F.R. §431 and §483;

(4) Under PASARR, through a designee, the department shall determine whether a nursing facility applicant or resident having a serious mental illness or developmental disability needs:

- (a) Specialized services under 42 C.F.R. §483.106; and
- (b) Nursing facility care using the definition under

WAC 388-97-065, Medical eligibility for nursing facility care.

(5) Need for specialized services shall be determined as follows:

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

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

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

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

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

(c) Has a severe physical illness such as coma, ventilator dependence, functioning at a brain stem level, or diagnoses which result in level of impairment so severe that the person could not be expected to benefit from specialized services. These diagnoses may include:

- (i) Chronic obstructive pulmonary disease;
- (ii) Parkinson's disease;
- (iii) Huntington's disease;
- (iv) Amyotrophic lateral sclerosis; or
- (v) Congestive heart failure.

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

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

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

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

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

(8) The department or department designee shall conduct an annual resident review for all residents identified as having a serious mental illness or a developmental disability.

NEW SECTION

WAC 388-97-090 PASARR determination and appeal rights. (1) A nursing facility applicant or resident who has been adversely impacted by a PASARR determination may appeal the department's determination of:

(a) Not in need of nursing facility care as defined under WAC 388-97-065, Medical eligibility for nursing facility care, and 42 C.F.R. §483.130 (m)(2),(5), or (6);

(b) Not in need of specialized services as defined under WAC 388-97-085, Preadmission screening and annual resident review (PASARR), and 42 C.F.R. §483.130 (m)(1),(2),(3), or (6); or

(c) Need for specialized services as defined under WAC 388-88-085, Preadmission screening and annual resident review (PASARR), 42 C.F.R. §483.130(4), and (5), & 42 C.F.R. §483.132 (a)(4).

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

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

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

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

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

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

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

(iii) The resident shall be ineligible for Medicaid nursing facility payment:

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

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

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

(5) The department shall:

(a) Send a copy of the transfer/discharge notice to the resident's attending physician, the nursing facility and, where appropriate, a family member or the resident's representative;

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

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

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

NEW SECTION

WAC 388-97-095 Utilization review. (1) To assure appropriate use of Medicaid services, the nursing facility shall determine whether each resident's health has improved sufficiently so the resident no longer needs nursing facility care.

(a) The nursing facility shall base its determination on:

- (i) An accurate, comprehensive assessment process; and
- (ii) Documentation by the resident's physician.

(b) The nursing facility shall not make this determination for residents the department is responsible to assess under WAC 388-97-085, Preadmission screening and annual resident review (PASARR).

(2) When the nursing facility determines a resident no longer needs nursing facility care under subsection (1) of this section, the nursing facility shall initiate transfer or discharge in accordance with WAC 388-97-100, Individual transfer and discharge rights, procedures, appeals, and 42 C.F.R. §483.12, as now or hereafter amended, unless the resident voluntarily chooses to transfer or discharge.

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

(a) The resident shall be ineligible for Medicaid nursing facility payment:

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

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

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

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

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

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

NEW SECTION

WAC 388-97-100 Individual transfer and discharge rights, procedures, appeals. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.12 (a)(7) and (b) will be deemed to meet subsections (5) through (8) of this section.

(2) The Medicare-certified skilled nursing facility and the Medicaid-certified nursing facility shall comply with all applicable federal requirements under 42 C.F.R. §483.10 and §483.12, as now or hereafter amended, regarding resident transfer and discharge rights.

(3) A skilled nursing facility and a nursing facility that initiates transfer or discharge shall:

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

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

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

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

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

(d) Assist the resident, as needed, in requesting a hearing to appeal the transfer or discharge decision.

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

(5) A NURSING FACILITY SHALL PROVIDE SUFFICIENT PREPARATION AND ORIENTATION TO THE RESIDENT TO ENSURE SAFE AND ORDERLY TRANSFER OR DISCHARGE FROM THE FACILITY.

(6) BEFORE A NURSING FACILITY TRANSFERS A RESIDENT TO A HOSPITAL OR ALLOWS A RESIDENT TO GO ON THERAPEUTIC LEAVE, THE NURSING FACILITY SHALL PROVIDE WRITTEN INFORMATION TO THE RESIDENT, AND A FAMILY MEMBER OR LEGAL REPRESENTATION THAT SPECIFIES:

(a) THE DURATION OF THE BED HOLD POLICY UNDER THE STATE PLAN, IF ANY, DURING WHICH THE RESIDENT IS PERMIT-

TED TO RETURN AND RESUME RESIDENCE IN THE NURSING FACILITY; AND

(b) THE NURSING FACILITY'S POLICIES REGARDING BED-HOLD PERIODS, WHICH MUST BE CONSISTENT WITH SECTION (7) OF THIS SECTION, PERMITTING THE RESIDENT TO RETURN.

(7) AT THE TIME OF TRANSFER OF A RESIDENT FOR HOSPITALIZATION OR THERAPEUTIC LEAVE, A NURSING FACILITY SHALL PROVIDE TO THE RESIDENT AND A FAMILY MEMBER OR LEGAL REPRESENTATIVE, WRITTEN NOTICE WHICH SPECIFIES THE DURATION OF THE BED-HOLD POLICY DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION.

(8) A NURSING FACILITY SHALL ESTABLISH AND FOLLOW A WRITTEN POLICY UNDER WHICH A RESIDENT WHOSE HOSPITALIZATION OR THERAPEUTIC LEAVE EXCEEDS THE BED-HOLD PERIOD UNDER THE STATE PLAN, IS READMITTED TO THE FACILITY IMMEDIATELY UPON THE FIRST AVAILABILITY OF A BED IN A SEMI-PRIVATE ROOM IF THE RESIDENT:

(a) REQUIRES THE SERVICES PROVIDED BY THE FACILITY; AND

(b) IS ELIGIBLE FOR MEDICAID NURSING FACILITY SERVICES.

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

(a) Aging and adult home and community services when the nursing facility has determined under WAC 388-97-095(1), that the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility; and

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

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

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

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

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

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

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

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

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

NEW SECTION

WAC 388-97-105 Resident assessment instrument.

(1) Medicaid-certified nursing facilities and Medicare-certified skilled nursing facilities shall:

(a) Complete the state-approved resident assessment instrument for each resident in accordance with federal requirements under 42 C.F.R. §483.20 (b)(4);

(b) Place copies of the completed state-approved resident assessment instrument in each resident's clinical record; and

(c) Review each resident not less than every three months, using a state-specified assessment instrument.

(2) Nursing facilities shall transmit all state-required resident assessment information for each resident to the department:

(a) In a manner approved by the department;

(b) Within ten days of completion of any assessment instrument required under this subsection; and

(c) Within ten days of discharging a resident.

NEW SECTION

WAC 388-97-110 Discharge or leave of a nursing facility resident. (1) A nursing facility or hospital shall send immediate written notification of the date of discharge or death of a Medicaid resident to the economic and medical field services community service office (CSO).

(2) The nursing facility shall:

(a) Ensure that the department is notified of nursing facility discharge and readmission for all Medicaid recipients admitted as hospital inpatients.

(b) Document in the resident's clinical record all social/therapeutic leave exceeding twenty-four hours.

(3) The department will reimburse a nursing facility for a Medicaid resident's social/therapeutic leave not to exceed a total of eighteen days per calendar year per resident.

(4) Aging and adult home and community services may authorize social/therapeutic leave exceeding eighteen days per calendar year per resident when requested by the nursing facility or by the resident. In the absence of prior authorization from aging and adult home and community services, the department shall not reimburse a nursing facility for leave days exceeding eighteen per calendar year per resident.

(5) Staff from the department of developmental disabilities will approve social leave for persons who reside in intermediate care facilities for the mentally retarded (ICF/MR) and state institutions certified as nursing facilities.

RESIDENT RIGHTS

WAC sections 388-97-115, 388-97-120, and 388-97-125 implement the federal Patient Self-Determination Act and clarify requirements under chapter 11.94 RCW, Power of Attorney; chapter 7.70 RCW, Actions for Injuries Resulting from Health Care; and chapter 70.122 RCW, Natural Death Act.

NEW SECTION

WAC 388-97-115 Resident representative and decision making. (1) At the time of admission, or not later than the completion of the initial comprehensive resident assessment, the nursing home shall determine:

(a) Whether the resident has appointed another person to make health care, financial, or other decisions for the resident;

(b) Whether the resident has created any advance directive or other legal documents that will establish a surrogate decision maker in the future; and

(c) If a resident is not making the resident's own decisions, who has the authority for surrogate decision making, and the scope of the surrogate decision maker's authority.

(2) In fulfilling its duty to determine who, if anyone, is authorized to make decisions for the resident, the nursing home shall:

(a) Seek copies of the legal documents that establish the surrogate decision maker's authority to act; and

(b) Document in the resident's clinical record:

(i) The name, address, and telephone number of the person who has legal authority for substitute decision making;

(ii) The type of decision making authority such person has; and

(iii) Where copies of the legal documents are located at the facility.

(3) In this chapter, the term "resident" includes the resident's surrogate decision maker in accordance with state law or at the request of the resident.

(a) In the case of a capacitated resident, the surrogate decision maker is the person authorized by the resident to make decisions on the resident's behalf;

(b) In the case of a resident adjudicated by a court of law to be incapacitated, the surrogate decision maker is the court appointed guardian; and

(c) In the case of a resident who has been determined to be incapacitated, but is not adjudicated incapacitated, the surrogate decision maker is established through:

(i) A legal document, such as a durable power of attorney for health care; or

(ii) Authority for substitute decision making granted by state law, including RCW 7.70.065.

(4) Determination of a person's incapacity shall be a legal, not medical decision based on:

(a) Demonstrated inability in decision making over time that creates a significant risk of personal harm;

(b) A court order; or

(c) The criteria contained in a legal document, such as durable power of attorney for health care.

(5) The nursing home shall:

(a) Regularly review any determination of incapacity based on subsections (3)(b) and (c) of this section; and

(b) If an incapacitated resident regains capacity, cease to rely upon the surrogate decision maker to exercise the resident's rights, unless so designated by the resident or by court order.

(6) The nursing home shall promote the resident's right to exercise decision making and self-determination to the fullest extent possible. Therefore, the nursing home shall presume that the resident is the resident's own decision maker unless:

(a) A court has established a guardianship;

(b) The resident has clearly and voluntarily appointed a surrogate decision maker;

(c) A surrogate is established by a legal document; or

(d) A resident has become mentally incapacitated and chapter 7.70 RCW applies.

(7) The nursing home shall honor the exercise of the resident's rights by the surrogate decision maker as long as the surrogate acts in accordance with this section; WAC 388-97-120, Informed consent; WAC 388-97-125, Self-determination and advance directives; and applicable federal requirements.

(8) If a surrogate decision maker exercises a resident's rights, the nursing home shall:

(a) Inform the resident that a surrogate decision maker has been consulted;

(b) Provide the resident with the information and opportunity to participate in all decision making to the maximum extent possible; and

(c) Recognize that involvement of a surrogate decision maker does not lessen the nursing home's duty to:

(i) Protect the resident's rights; and

(ii) Comply with state and federal laws.

NEW SECTION

WAC 388-97-120 Informed consent. (1) The nursing home shall follow the informed consent process as specified in RCW 7.70.060 with regard to each service, treatment, medication, and medical procedure option including those resulting from significant changes in physical, mental, or psychosocial status. The nursing home shall follow this informed consent process with:

(a) The resident to the maximum extent possible;

(b) Any other person the resident has directed be consulted; and

(c) The surrogate decision maker when the resident is determined to be incapacitated as established through the provision of a legal document such as durable power of attorney for health care, a court proceeding, or as authorized by state law, including RCW 7.70.065.

(2) To ensure informed consent by a resident to accept or refuse a specific service, treatment, medication, or medical procedure option, the nursing home in a neutral manner shall:

(a) Provide to the resident in a language and manner the resident can understand, or, where necessary, request the attending physician to provide to the resident the following:

(i) The nature and character of the proposed treatment;

(ii) The recognized possible alternative forms of treatment;

(iii) The anticipated results, serious complications, possible risks and benefits of proposed and alternative treatments; and

(iv) The anticipated results, complications and risks of nontreatment.

(b) Provide evidence of discussions with the resident that clearly indicate:

(i) The provision of information in subsection (2)(a) through (iv) of this section; and

(ii) The resident's choice regarding a specific service, treatment, medication, or medical procedure option, including if the resident chooses not to be informed as required in subsections (1) and (2) of this section.

(c) Inform the resident at the time of the initial decision and periodically of the right to change his or her mind about an earlier consent or refusal decision.

(3) The nursing home shall take into account that if a resident's rights are being exercised by a surrogate decision maker, the surrogate decision maker shall:

(a) First determine if the resident would consent or refuse the proposed or alternative treatment;

(b) Discuss determination of consent or refusal with the resident whenever possible; and

(c) When a determination of the resident's consent or refusal of treatment cannot be made, make the decision in the best interest of the resident.

NEW SECTION

WAC 388-97-125 Self-determination and advance directives. (1) "Advance directive" as used in this chapter means any document indicating a resident's choice with regard to a specific service, treatment, medication or medical procedure option that may be implemented in the future such as power of attorney, living will, limited or restricted treatment order, code/no code order, and anatomical gifts.

(2) The nursing home shall carry out the provisions of this section in accordance with WAC 388-97-115, Resident representation and decision making, and WAC 388-97-120, Informed consent.

(3) The nursing home shall:

(a) Document in the clinical record whether or not the resident has an advance directive;

(b) Not require the resident to have any advance directives and not condition the provision of care or otherwise discriminate against a resident on the basis of whether or not the resident has executed an advance directive;

(c) Inform the resident in writing and orally at the time of admission, and thereafter as necessary to ensure the resident's right to make informed choices, about nursing home policies and procedures concerning implementation of advance directives; and

(d) Review resident advance directive information:

(i) At the resident's request;

(ii) When the resident's condition warrants review; and

(iii) At the time of the quarterly resident assessment and care plan review.

(e) If needed, based on the outcome of the review in subsection (3)(d) of this section, update advance directive information.

(4) When the nursing home becomes aware that a resident's health care directive is in conflict with facility practices and policies which are consistent with state and federal law, the nursing home shall:

(a) Inform the resident of the existence of any nursing home practice or policy which would preclude implementing the health care directive;

(b) Provide the resident with written policies and procedures that explain under what circumstances a resident's health care directive will or will not be implemented by the nursing home;

(c) Meet with the resident to discuss the conflict;

(d) Determine, in light of the conflicting practice or policy, whether the resident chooses to remain at the nursing home; and

(e) Develop a plan in accordance with subsection (5) of this section; and

(f) Attach the plan to the resident's directive in the clinical record.

(5) If the resident chooses to remain in the nursing home, develop with the resident a plan in accordance with chapter 70.122 RCW to implement the resident's wishes. The nursing home may need to actively participate in ensuring the execution of the plan, including moving the resident at the time of implementation to a care setting that will implement the resident's wishes.

(6) If, after recognizing the conflict between the resident's wishes and nursing home practice or policy as determined in section (4)(b) of this section, the resident chooses to seek other long-term care services, or another physician who will implement the directive, the nursing home shall assist the resident in locating other appropriate services.

(7) If a terminally ill resident, in accordance with state law, wishes to die at home, the nursing home shall:

(a) Use the informed consent process as described in WAC 388-97-120, Informed consent, and explain to the resident the risks associated with discharge; and

(b) Discharge the resident as soon as reasonably possible.

NEW SECTION

WAC 388-97-130 Resident rights. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.10(a) will be deemed to meet subsections (2) through (18), except for (3)(c), (4)(g), (10)(a), (14), (15)(b) and (c), and (16)(b), (c), and (d).

(2) THE RESIDENT HAS A RIGHT TO A DIGNIFIED EXISTENCE, SELF-DETERMINATION, AND COMMUNICATION WITH AND ACCESS TO PERSONS AND SERVICES INSIDE AND OUTSIDE THE NURSING HOME. A NURSING HOME SHALL PROMOTE AND PROTECT THE RIGHTS OF EACH RESIDENT, INCLUDING THOSE WITH LIMITED COGNITION OR OTHER BARRIERS THAT LIMIT THE EXERCISE OF RIGHTS.

(3) EXERCISE OF RIGHTS.

(a) THE RESIDENT HAS THE RIGHT TO EXERCISE HIS OR HER RIGHTS AS A RESIDENT OF THE NURSING HOME AND AS A CITIZEN OR RESIDENT OF THE UNITED STATES. REFER TO WAC 388-97-115, RESIDENT REPRESENTATION.

(b) THE RESIDENT HAS THE RIGHT TO BE FREE OF INTERFERENCE, COERCION, DISCRIMINATION, AND REPRISAL FROM THE NURSING HOME IN EXERCISING HIS OR HER RIGHTS.

(c) The nursing home shall not require the resident to sign any contract or agreement that purports to waive any right of the resident.

(4) NOTICE OF RIGHTS AND SERVICES.

(a) THE NURSING HOME MUST INFORM THE RESIDENT BOTH ORALLY AND IN WRITING IN A LANGUAGE THAT THE RESIDENT UNDERSTANDS OF HIS OR HER RIGHTS AND ALL RULES AND REGULATIONS GOVERNING RESIDENT CONDUCT AND RESPONSIBILITIES DURING THE STAY IN THE NURSING HOME. SUCH NOTIFICATION MUST BE MADE PRIOR TO OR UPON ADMISSION AND DURING THE RESIDENT'S STAY. RECEIPT OF SUCH INFORMATION, AND ANY AMENDMENTS TO IT, MUST BE ACKNOWLEDGED IN WRITING;

(b) THE RESIDENT OR HIS OR HER SURROGATE DECISION MAKER HAS THE RIGHT:

(i) UPON AN ORAL OR WRITTEN REQUEST, TO ACCESS ALL RECORDS PERTAINING TO THE RESIDENT INCLUDING CLINICAL RECORDS WITHIN TWENTY-FOUR HOURS FOR SKILLED NURSING FACILITY AND NURSING FACILITY, AND ACCORDING TO

CHAPTER 70.02 RCW, HEALTH CARE INFORMATION ACCESS AND DISCLOSURE, FOR NURSING HOMES; AND

(ii) AFTER RECEIPT OF HIS OR HER RECORDS FOR INSPECTION, TO PURCHASE AT A COST NOT TO EXCEED THE COMMUNITY STANDARD PHOTOCOPIES OF THE RECORDS OR ANY PORTIONS OF THEM UPON REQUEST AND TWO WORKING DAYS ADVANCE NOTICE TO THE NURSING HOME.

(c) THE RESIDENT HAS THE RIGHT TO BE FULLY INFORMED IN LANGUAGE THAT HE OR SHE CAN UNDERSTAND OF HIS OR HER TOTAL HEALTH STATUS, INCLUDING, BUT NOT LIMITED TO, HIS OR HER MEDICAL CONDITION, REFER TO RESIDENT REPRESENTATION AND INFORMED CONSENT (1)(a)(b);

(d) THE RESIDENT HAS THE RIGHT TO REFUSE TREATMENT AND TO REFUSE TO PARTICIPATE IN EXPERIMENTAL RESEARCH; AND

(e) THE SKILLED NURSING FACILITY AND NURSING FACILITY SHALL ACCORDING TO 42 C.F.R. § 483.10 (c)(8):

(i) INFORM EACH RESIDENT WHO IS ENTITLED TO MEDICAID BENEFITS, IN WRITING, AT THE TIME OF ADMISSION TO THE NURSING FACILITY OR, WHEN THE RESIDENT BECOMES ELIGIBLE FOR MEDICAID OF:

(A) THE ITEMS AND SERVICES THAT ARE INCLUDED IN NURSING FACILITY SERVICES UNDER THE STATE PLAN AND FOR WHICH THE RESIDENT MAY NOT BE CHARGED;

(B) THOSE OTHER ITEMS AND SERVICES THAT THE FACILITY OFFERS AND FOR WHICH THE RESIDENT MAY BE CHARGED, AND THE AMOUNT OF CHARGES FOR THOSE SERVICES; AND

(ii) INFORM EACH RESIDENT WHEN CHANGES ARE MADE TO THE ITEMS AND SERVICES SPECIFIED IN PARAGRAPHS (e)(i)(A)(B);

(f) THE NURSING HOME SHALL INFORM EACH RESIDENT BEFORE, OR AT THE TIME OF ADMISSION, AND PERIODICALLY DURING THE RESIDENT'S STAY, OF SERVICES AVAILABLE IN THE FACILITY AND OF CHARGES FOR THOSE SERVICES, INCLUDING ANY CHARGES FOR SERVICES NOT COVERED UNDER MEDICARE OR BY THE FACILITY'S PER DIEM RATE.

(g) Fee disclosure-deposits.

(i) Prior to admission, a nursing home that requires payment of an admission fee, deposit, or a minimum stay fee, by or on behalf of a person seeking admission to the facility, shall provide the resident:

(A) Full disclosure in writing of the nursing home's schedule of charges for items and services provided by the facility;

(B) The amount of any admission fees, deposits, or minimum stay fees; and

(C) Full disclosure in writing prior to admission of what portion of the deposits, admissions fees, or minimum stay fee will be refunded to the resident if the resident leaves the facility.

(ii) If a resident, during the first thirty days of residence, dies or is hospitalized and does not return to the facility, the nursing home shall refund any deposit already paid less the facility's per diem rate for the days the resident actually resided or reserved a bed in the facility, notwithstanding any minimum stay policy;

(iii) The nursing home shall refund any and all refunds due the resident within thirty days from the resident's date of discharge from the facility; and

(iv) Where the nursing home requires the execution of an admission contract by or on behalf of an individual seeking admission to the facility, the terms of the contract shall be consistent with the requirements of this section.

(h) THE NURSING HOME SHALL FURNISH A WRITTEN DESCRIPTION OF LEGAL RIGHTS WHICH INCLUDES:

(i) A DESCRIPTION OF THE MANNER OF PROTECTING PERSONAL FUNDS, UNDER PARAGRAPH (6) OF THIS SECTION;

(ii) IN THE CASE OF A NURSING FACILITY ONLY, A DESCRIPTION OF THE REQUIREMENTS AND PROCEDURES FOR ESTABLISHING ELIGIBILITY FOR MEDICAID, INCLUDING THE RIGHT TO

REQUEST AN ASSESSMENT UNDER SECTION 1924(c) WHICH DETERMINES THE EXTENT OF A COUPLE'S NONEXEMPT RESOURCES AT THE TIME OF INSTITUTIONALIZATION AND ATTRIBUTES TO THE COMMUNITY SPOUSE AN EQUITABLE SHARE OF RESOURCES WHICH CANNOT BE CONSIDERED AVAILABLE FOR PAYMENT TOWARD THE COST OF THE INSTITUTIONALIZED SPOUSE'S MEDICAL CARE IN HIS OR HER PROCESS OF SPENDING DOWN TO MEDICAID ELIGIBILITY LEVELS;

(iii) A POSTING OF NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF ALL PERTINENT STATE CLIENT ADVOCACY GROUPS SUCH AS THE STATE SURVEY AND CERTIFICATION AGENCY, THE STATE LICENSURE OFFICE, THE STATE OMBUDSMAN PROGRAM, THE PROTECTION AND ADVOCACY NETWORK, AND THE MEDICAID FRAUD CONTROL UNIT; AND

(iv) A STATEMENT THAT THE RESIDENT MAY FILE A COMPLAINT WITH THE STATE SURVEY AND CERTIFICATION AGENCY CONCERNING RESIDENT ABUSE, NEGLECT, AND MISAPPROPRIATION OF RESIDENT PROPERTY IN THE FACILITY.

(i) THE NURSING HOME MUST INFORM EACH RESIDENT OF THE NAME, SPECIALTY AND WAY OF CONTACTING THE PHYSICIAN RESPONSIBLE FOR HIS OR HER CARE.

(j) THE SKILLED NURSING FACILITY AND NURSING FACILITY MUST PROMINENTLY DISPLAY IN THE FACILITY WRITTEN INFORMATION, AND PROVIDE TO RESIDENTS AND APPLICANTS FOR ADMISSION ORAL AND WRITTEN INFORMATION ABOUT HOW TO APPLY FOR AND USE MEDICARE AND MEDICAID BENEFITS, AND HOW TO RECEIVE REFUNDS FOR PREVIOUS PAYMENTS COVERED BY SUCH BENEFITS.

(5) NOTIFICATION OF CHANGES.

(a) A NURSING HOME MUST IMMEDIATELY INFORM THE RESIDENT; CONSULT WITH THE RESIDENT'S PHYSICIAN; AND IF KNOWN, NOTIFY THE RESIDENT'S SURROGATE DECISION MAKER AND WHEN APPROPRIATE, WITH RESIDENT CONSENT AN INTERESTED FAMILY MEMBER WHEN THERE IS:

(i) AN ACCIDENT INVOLVING THE RESIDENT WHICH RESULTS IN INJURY AND HAS THE POTENTIAL FOR REQUIRING PHYSICIAN INTERVENTION;

(ii) A SIGNIFICANT CHANGE IN THE RESIDENT'S PHYSICAL, MENTAL, OR PSYCHOSOCIAL STATUS (i.e., A DETERIORATION IN HEALTH, MENTAL, OR PSYCHOLOGICAL STATUS IN EITHER LIFE-THREATENING CONDITIONS OR CLINICAL COMPLICATIONS); REFER TO RESIDENT REPRESENTATIVE AND INFORMED CONSENT (1)(a)(b);

(iii) A NEED TO ALTER TREATMENT SIGNIFICANTLY (i.e., A NEED TO DISCONTINUE AN EXISTING FORM OF TREATMENT DUE TO ADVERSE CONSEQUENCES, OR TO COMMENCE A NEW FORM OF TREATMENT); OR

(iv) A DECISION TO TRANSFER OR DISCHARGE THE RESIDENT FROM THE FACILITY.

(b) THE NURSING HOME MUST ALSO PROMPTLY NOTIFY THE RESIDENT AND, IF KNOWN, THE RESIDENT'S SURROGATE DECISION MAKER AND WHEN APPROPRIATE, WITH THE RESIDENT'S CONSENT INTERESTED FAMILY MEMBER WHEN THERE IS:

(i) A CHANGE IN ROOM OR ROOMMATE ASSIGNMENT; OR

(ii) A CHANGE IN RESIDENT RIGHTS UNDER FEDERAL OR STATE LAW OR REGULATIONS AS SPECIFIED IN PARAGRAPH (4)(A) OF THIS SECTION.

(c) THE NURSING HOME MUST RECORD AND PERIODICALLY UPDATE THE ADDRESS AND PHONE NUMBER OF THE RESIDENT'S LEGAL SURROGATE DECISION MAKER AND INTERESTED FAMILY MEMBER.

(6) PROTECTION OF RESIDENT FUNDS.

(a) THE RESIDENT HAS THE RIGHT TO MANAGE HIS OR HER FINANCIAL AFFAIRS AND THE NURSING HOME MAY NOT REQUIRE RESIDENTS TO DEPOSIT THEIR PERSONAL FUNDS WITH THE FACILITY.

(b) MANAGEMENT OF PERSONAL FUNDS. UPON WRITTEN AUTHORIZATION OF A RESIDENT, THE NURSING HOME MUST HOLD, SAFEGUARD, MANAGE AND ACCOUNT FOR THE PERSONAL FUNDS OF THE RESIDENT DEPOSITED WITH THE FACILITY.

(c) ACCOUNTING AND RECORDS. THE NURSING HOME MUST ESTABLISH AND MAINTAIN A SYSTEM THAT ASSURES A FULL AND COMPLETE AND SEPARATE ACCOUNTING, ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, OF

EACH RESIDENT'S PERSONAL FUNDS ENTRUSTED TO THE FACILITY ON THE RESIDENT'S BEHALF.

(i) THE SYSTEM MUST PRECLUDE ANY COMMINGLING OF RESIDENT FUNDS WITH FACILITY FUNDS OR WITH THE FUNDS OF ANY PERSON OTHER THAN ANOTHER RESIDENT.

(ii) THE INDIVIDUAL FINANCIAL RECORD MUST BE AVAILABLE THROUGH QUARTERLY STATEMENTS ON REQUEST TO THE RESIDENT OR HIS OR HER LEGAL REPRESENTATIVE.

(d) NOTICE OF CERTAIN BALANCES. THE SKILLED NURSING FACILITY AND NURSING FACILITY MUST NOTIFY EACH RESIDENT THAT RECEIVES MEDICAID BENEFITS:

(i) WHEN THE AMOUNT IN THE RESIDENT'S ACCOUNT REACHES TWO HUNDRED DOLLARS LESS THAN THE SSI RESOURCE LIMIT FOR ONE PERSON; AND

(ii) THAT IF THE AMOUNT IN THE ACCOUNT, IN ADDITION TO THE VALUE OF THE RESIDENT'S OTHER NONEXEMPT RESOURCES, REACHES THE SSI RESOURCE LIMIT FOR ONE PERSON, THE RESIDENT MAY LOSE ELIGIBILITY FOR MEDICAID OR SSI.

(e) CONVEYANCE UPON DEATH. UPON THE DEATH OF A RESIDENT WITH A PERSONAL FUND DEPOSITED WITH THE NURSING HOME, THE FACILITY MUST CONVEY WITHIN THIRTY DAYS THE RESIDENT'S FUNDS, AND A FINAL ACCOUNTING OF THOSE FUNDS, TO THE INDIVIDUAL OR JURISDICTION ADMINISTERING THE RESIDENT'S ESTATE.

(f) ASSURANCE OF FINANCIAL SECURITY. THE SKILLED NURSING FACILITY AND NURSING FACILITY MUST PURCHASE A SURETY BOND, OR OTHERWISE PROVIDE ASSURANCE, TO ASSURE SECURITY OF PERSONAL FUNDS OF RESIDENTS DEPOSITED WITH THE FACILITY.

(g) LIMITATION ON CHARGES TO PERSONAL FUNDS. THE SKILLED NURSING FACILITY AND NURSING FACILITY MAY NOT IMPOSE A CHARGE AGAINST THE PERSONAL FUNDS OF A RESIDENT FOR ANY ITEM OR SERVICE FOR WHICH PAYMENT IS MADE UNDER MEDICAID OR MEDICARE AS DESCRIBED IN 42 C.F.R. §483.10 (c)(8).

(h) THE SKILLED NURSING FACILITY AND NURSING FACILITY SHALL:

(i) NOT CHARGE A RESIDENT (OR THE RESIDENT'S REPRESENTATIVE) FOR ANY ITEM OR SERVICE NOT REQUESTED BY THE RESIDENT.

(ii) NOT REQUIRE A RESIDENT (OR THE RESIDENT'S REPRESENTATIVE) TO REQUEST ANY ITEM OR SERVICE AS A CONDITION OF ADMISSION OR CONTINUED STAY; AND

(iii) INFORM THE RESIDENT (OR THE RESIDENT'S REPRESENTATIVE) REQUESTING AN ITEM OR SERVICES FOR WHICH A CHARGE WILL BE MADE THAT THERE WILL BE A CHARGE FOR THE ITEM OR SERVICE AND WHAT THE CHARGE WILL BE.

(7) FREE CHOICE. THE RESIDENT HAS THE RIGHT TO:

(a) CHOOSE A PERSONAL ATTENDING PHYSICIAN;

(b) BE FULLY INFORMED IN ADVANCE ABOUT CARE AND TREATMENT AND OF ANY CHANGES IN THAT CARE OR TREATMENT THAT MAY AFFECT THE RESIDENT'S WELL-BEING; AND

(c) UNLESS ADJUDGED INCOMPETENT OR OTHERWISE FOUND TO BE INCAPACITATED UNDER THE LAWS OF THE STATE, PARTICIPATE IN PLANNING CARE AND TREATMENT OR CHANGES IN CARE AND TREATMENT.

(8) PRIVACY AND CONFIDENTIALITY. THE RESIDENT HAS THE RIGHT TO PERSONAL PRIVACY AND CONFIDENTIALITY OF HIS OR HER PERSONAL AND CLINICAL RECORDS.

(a) PERSONAL PRIVACY INCLUDES ACCOMMODATIONS, MEDICAL TREATMENT, WRITTEN AND TELEPHONE COMMUNICATIONS, PERSONAL CARE, VISITS, AND MEETINGS OF FAMILY AND RESIDENT GROUPS, BUT THIS DOES NOT REQUIRE THE NURSING HOME TO PROVIDE A PRIVATE ROOM FOR EACH RESIDENT.

(b) EXCEPT AS PROVIDED IN PARAGRAPH (7)(c) OF THIS SECTION, THE RESIDENT MAY APPROVE OR REFUSE THE RELEASE OF PERSONAL AND CLINICAL RECORDS TO ANY INDIVIDUAL OUTSIDE THE NURSING HOME;

(c) THE RESIDENT'S RIGHT TO REFUSE RELEASE OF PERSONAL AND CLINICAL RECORDS DOES NOT APPLY WHEN:

(i) THE RESIDENT IS TRANSFERRED TO ANOTHER HEALTH CARE INSTITUTION; OR

(ii) RECORD RELEASE IS REQUIRED BY LAW.

(9) GRIEVANCES. A RESIDENT HAS THE RIGHT TO:

(a) VOICE GRIEVANCES WITHOUT DISCRIMINATION OR REPRISAL. SUCH GRIEVANCES INCLUDE THOSE WITH RESPECT TO TREATMENT WHICH HAS BEEN FURNISHED AS WELL AS THAT WHICH HAS NOT BEEN FURNISHED; AND

(b) PROMPT EFFORTS BY THE NURSING HOME TO RESOLVE GRIEVANCES THE RESIDENT MAY HAVE, INCLUDING THOSE WITH RESPECT TO THE BEHAVIOR OF OTHER RESIDENTS.

(10) EXAMINATION OF SURVEY RESULTS. A resident has the right to:

(a) Examine the results of the most recent survey or complaint investigation of the nursing home conducted by federal and state surveyors or inspectors and plans of correction in effect with respect to the facility. The nursing home shall:

(i) Publicly post a copy of the most recent survey and complaint investigation until the violation is corrected to the satisfaction of the department up to a maximum of one hundred twenty days;

(ii) Make a copy of the survey results available for examination in a place readily accessible to residents;

(iii) Post a notice that the results of the survey or investigation are available and the location of the surveys when not posted; and

(iv) Post surveys and notices in a place or places in plain view of the residents in the nursing home, persons visiting those residents, and persons who inquire about placement in the facility; and

(b) RECEIVE INFORMATION FROM AGENCIES ACTING AS CLIENT ADVOCATES, AND BE AFFORDED THE OPPORTUNITY TO CONTACT THESE AGENCIES.

(11) WORK. THE RESIDENT HAS THE RIGHT TO:

(a) REFUSE TO PERFORM SERVICES FOR THE NURSING HOME;

(b) PERFORM SERVICES FOR THE NURSING HOME, IF HE OR SHE CHOOSES, WHEN:

(i) THE FACILITY HAS DOCUMENTED THE NEED OR DESIRE FOR WORK IN THE PLAN OF CARE;

(ii) THE PLAN SPECIFIES THE NATURE OF THE SERVICES PERFORMED AND WHETHER THE SERVICES ARE VOLUNTARY OR PAID;

(iii) COMPENSATION FOR PAID SERVICES IS AT OR ABOVE PREVAILING RATES; AND

(iv) THE RESIDENT AGREES TO THE WORK ARRANGEMENT DESCRIBED IN THE PLAN OF CARE.

(12) MAIL. THE RESIDENT HAS THE RIGHT TO PRIVACY IN WRITTEN COMMUNICATIONS, INCLUDING THE RIGHT TO:

(a) SEND AND PROMPTLY RECEIVE MAIL THAT IS UNOPENED; AND

(b) HAVE ACCESS TO STATIONERY, POSTAGE AND WRITING IMPLEMENTS AT THE RESIDENT'S OWN EXPENSE.

(13) ACCESS AND VISITATION RIGHTS.

(a) THE RESIDENT HAS THE RIGHT AND THE NURSING HOME MUST PROVIDE IMMEDIATE ACCESS TO ANY RESIDENT BY THE FOLLOWING:

(i) ANY REPRESENTATIVE OF THE SECRETARY;

(ii) ANY REPRESENTATIVE OF THE STATE;

(iii) THE RESIDENT'S INDIVIDUAL PHYSICIAN;

(iv) ANY REPRESENTATIVE OF THE STATE LONG TERM CARE OMBUDSMAN (ESTABLISHED UNDER SECTION 307 (A)(12) OF THE OLDER AMERICAN'S ACT OF 1965);

(v) THE AGENCY RESPONSIBLE FOR THE PROTECTION AND ADVOCACY SYSTEM FOR DEVELOPMENTALLY DISABLED INDIVIDUALS (ESTABLISHED UNDER PART C OF THE DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT);

(vi) THE AGENCY RESPONSIBLE FOR THE PROTECTION AND ADVOCACY SYSTEM FOR MENTALLY ILL INDIVIDUALS (ESTABLISHED UNDER THE PROTECTION AND ADVOCACY FOR MENTALLY ILL INDIVIDUALS ACT);

(vii) SUBJECT TO THE RESIDENT'S RIGHT TO DENY OR WITHDRAW CONSENT AT ANY TIME, IMMEDIATE FAMILY OR OTHER RELATIVES OF THE RESIDENT; AND

(viii) SUBJECT TO REASONABLE RESTRICTIONS AND THE RESIDENT'S RIGHT TO DENY OR WITHDRAW CONSENT AT ANY TIME, OTHERS WHO ARE VISITING WITH THE CONSENT OF THE RESIDENT.

(b) THE NURSING HOME MUST PROVIDE REASONABLE ACCESS TO ANY RESIDENT BY ANY ENTITY OR INDIVIDUAL THAT PROVIDES HEALTH, SOCIAL, LEGAL, OR OTHER SERVICES TO THE RESIDENT, SUBJECT TO THE RESIDENT'S RIGHT TO DENY OR WITHDRAW CONSENT AT ANY TIME.

(c) THE NURSING HOME MUST ALLOW REPRESENTATIVES OF THE STATE OMBUDSMAN, DESCRIBED IN PARAGRAPH (13)(A)(IV) OF THIS SECTION, TO EXAMINE A RESIDENT'S CLINICAL RECORDS WITH THE PERMISSION OF THE RESIDENT OR THE RESIDENT'S SURROGATE DECISION MAKER, AND CONSISTENT WITH STATE LAW.

(14) TELEPHONE. The resident has the right to have twenty-four hour access to a telephone which:

(a) Provides auditory privacy; and

(b) Is accessible to a person with a disability and accommodates a person with sensory impairment.

(15) PERSONAL PROPERTY.

(a) THE RESIDENT HAS THE RIGHT TO RETAIN AND USE PERSONAL POSSESSIONS, INCLUDING SOME FURNISHINGS, AND APPROPRIATE CLOTHING, AS SPACE PERMITS, UNLESS TO DO SO WOULD INFRINGE UPON THE RIGHTS OR HEALTH AND SAFETY OF OTHER RESIDENTS.

(b) The nursing home shall allow the resident to provide his or her own bed and other furniture, if desired and space permits, unless to do so would infringe on the rights or health and safety of other residents.

(c) No nursing home shall require residents to sign waivers of potential liability for losses of personal property.

(d) The nursing home shall have a system in place to safeguard personal property within the nursing home.

(16) ROOMMATES/ROOMS.

(a) A RESIDENT SHALL HAVE THE RIGHT TO SHARE A ROOM WITH HIS OR HER SPOUSE WHEN MARRIED RESIDENTS LIVE IN THE SAME FACILITY AND BOTH SPOUSES CONSENT TO THE ARRANGEMENT; AND

(b) A resident shall have the right to receive three days notice of change in room or roommate except where the move is at the resident's request, a longer or shorter notice is required to protect the health or safety of the person or other resident, or an admission is necessary.

(c) The nursing home shall make reasonable efforts to accommodate residents wanting to share the same room;

(17) SELF-ADMINISTRATION OF DRUGS. AN INDIVIDUAL RESIDENT MAY SELF-ADMINISTER DRUGS IF THE INTERDISCIPLINARY TEAM HAS DETERMINED THAT THIS PRACTICE IS SAFE.

(18) REFUSAL OF CERTAIN TRANSFERS.

(a) AN INDIVIDUAL RESIDENT HAS THE RIGHT TO REFUSE A TRANSFER TO ANOTHER ROOM WITHIN THE INSTITUTION, IF THE PURPOSE OF THE TRANSFER IS TO RELOCATE:

(i) A RESIDENT OF A SNF FROM THE DISTINCT PART OF THE INSTITUTION THAT IS A SNF TO A PART OF THE INSTITUTION THAT IS NOT A SNF, OR

(ii) A RESIDENT OF A NF FROM THE DISTINCT PART OF THE INSTITUTION THAT IS A NF TO A DISTINCT PART OF THE INSTITUTION THAT IS A SNF.

(b) A RESIDENT'S EXERCISE OF THE RIGHT TO REFUSE TRANSFER UNDER PARAGRAPH (18)(a) OF THIS SECTION DOES NOT AFFECT THE INDIVIDUAL'S ELIGIBILITY OR ENTITLEMENT TO MEDICARE OR MEDICAID BENEFITS.

NEW SECTION

WAC 388-97-135 Nursing home practices—Resident restraint and prevention of abuse. (1) Medicaid-certified nursing facilities in compliance with federal requirements at

42 C.F.R. §483.13 will be deemed to meet subsections (2)(a) and (7) through (12) of this section.

(2) The resident has the right to be free from any physical or chemical restraints imposed for purposes of:

(a) DISCIPLINE OR CONVENIENCE, AND NOT REQUIRED TO TREAT THE RESIDENT'S MEDICAL SYMPTOMS; OR

(b) Preventing or limiting independent mobility or activity, except that a restraint may be used in a bona fide emergency situation when necessary to prevent a person from inflicting injury upon self or others. The nursing home shall obtain within seventy-two hours a physician's order for proper treatment resolving the emergency situation and eliminating the cause for the restraint. Intermediate care facilities for the mentally retarded (ICF/MR) are not required to obtain a physician's order for emergency restraints.

(3) The nursing home shall have written policies and procedures in place governing:

(a) Use of chemical and physical restraints;

(b) The personnel authorized to administer restraints in an emergency; and

(c) Monitoring and controlling the use of restraints.

(4) In certain situations, physical restraints may be necessary for persons with acute or chronic physical impairments. In these situations, the nursing home shall ensure the use of physical restraints is related to a specific need or problem identified in the comprehensive care plan.

(5) In any situation where chemical or physical restraint is used for a resident, the nursing home shall ensure:

(a) The informed consent process is followed as described under WAC 388-97-120; and

(b) The resident's care plan provides approaches to diminish or eliminate the use of the restraint, where possible.

(6) The nursing home shall ensure that any resident physically restricted is released:

(a) At intervals not to exceed two hours; and

(b) For periods long enough to provide for ambulation, exercise, elimination, food and fluid intake, and socialization as independently as possible.

(7) THE RESIDENT HAS THE RIGHT TO BE FREE FROM VERBAL, SEXUAL, PHYSICAL AND MENTAL ABUSE, CORPORAL PUNISHMENT; AND INVOLUNTARY SECLUSION, EXCEPT INVOLUNTARY SECLUSION IS PERMITTED IN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR) UNDER 42 C.F.R. §483, SUBPART I.

(8) THE NURSING HOME SHALL DEVELOP AND IMPLEMENT WRITTEN POLICIES AND PROCEDURES THAT PROHIBIT MISTREATMENT, NEGLIGENCE AND ABUSE OF RESIDENTS AND MISAPPROPRIATION OF RESIDENT PROPERTY.

(9) THE NURSING HOME SHALL:

(a) NOT USE VERBAL, MENTAL, SEXUAL, OR PHYSICAL ABUSE, CORPORAL PUNISHMENT OR INVOLUNTARY SECLUSION, EXCEPT INVOLUNTARY SECLUSION IS PERMITTED IN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR) UNDER 42 C.F.R. §483, SUBPART I, AND

(b) NOT EMPLOY PERSONS WHO HAVE BEEN:

(i) FOUND GUILTY OF ABUSING, NEGLECTING OR MISTREATING RESIDENTS; BY A COURT OF LAW; OR

(ii) HAVE HAD A FINDING ENTERED INTO THE STATE NURSE AIDE REGISTRY CONCERNING ABUSE, NEGLIGENCE, MISTREATMENT OF RESIDENTS, AND MISAPPROPRIATION OF THEIR PROPERTY; AND

(iii) REPORT ANY KNOWLEDGE IT HAS OF ACTIONS BY A COURT OF LAW AGAINST AN EMPLOYEE, WHICH WOULD INDICATE UNFITNESS FOR SERVICES AS A NURSE AIDE OR OTHER FACILITY STAFF TO THE STATE NURSE AID REGISTRY OR LICENSING AUTHORITIES.

(10) THE NURSING HOME SHALL ENSURE THAT ALL ALLEGED VIOLATIONS INVOLVING MISTREATMENT, NEGLIGENCE

OR ABUSE INCLUDING INJURIES OF UNKNOWN SOURCE, AND MISAPPROPRIATION OF RESIDENT PROPERTY ARE REPORTED IMMEDIATELY TO THE ADMINISTRATOR OF THE FACILITY AND TO OTHER OFFICIALS IN ACCORDANCE WITH STATE LAW THROUGH ESTABLISHED PROCEDURES (INCLUDING TO THE STATE SURVEY AND CERTIFICATION AGENCY).

(11) THE NURSING HOME SHALL:

(a) HAVE EVIDENCE THAT ALL ALLEGED VIOLATIONS ARE THOROUGHLY INVESTIGATED, AND

(b) PREVENT FURTHER POTENTIAL ABUSE WHILE THE INVESTIGATION IS IN PROGRESS.

(12) THE RESULTS OF ALL INVESTIGATIONS SHALL BE REPORTED TO THE ADMINISTRATOR OR HIS DESIGNATED REPRESENTATIVE AND TO OTHER OFFICIALS IN ACCORDANCE WITH STATE LAW (INCLUDING TO THE STATE SURVEY AND CERTIFICATION AGENCY) WITHIN FIVE WORKING DAYS OF THE INCIDENT, AND IF THE ALLEGED VIOLATION IS VERIFIED APPROPRIATE CORRECTIVE ACTION MUST BE TAKEN.

QUALITY OF LIFE

NEW SECTION

WAC 388-97-140 Quality of life. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.15 will be deemed to meet subsections (2) through (10), except (7)(b), (9)(b)&(c) and (10).

THE NURSING HOME SHALL CARE FOR ITS RESIDENTS IN A MANNER AND IN AN ENVIRONMENT THAT PROMOTES MAINTENANCE OR ENHANCEMENT OF EACH RESIDENT'S QUALITY OF LIFE.

(2) DIGNITY.

(a) THE NURSING HOME SHALL PROMOTE CARE FOR RESIDENTS IN A MANNER AND IN AN ENVIRONMENT THAT MAINTAINS OR ENHANCES EACH RESIDENT'S DIGNITY AND RESPECT IN FULL RECOGNITION OF HIS OR HER INDIVIDUALITY; AND

(b) THE NURSING HOME SHALL PROVIDE TREATMENT AND CARE OF EACH RESIDENT'S PERSONAL CARE NEEDS IN A PRIVATE AREA FREE FROM EXPOSURE TO PERSONS NOT INVOLVED IN PROVIDING THE CARE.

(3) SELF-DETERMINATION AND PARTICIPATION.

THE RESIDENT HAS THE RIGHT TO:

(a) CHOOSE ACTIVITIES, SCHEDULES, AND HEALTH CARE CONSISTENT WITH HIS OR HER INTERESTS, ASSESSMENTS, AND PLANS OF CARE;

(b) INTERACT WITH MEMBERS OF THE COMMUNITY BOTH INSIDE AND OUTSIDE THE NURSING HOME; AND

(c) MAKE CHOICES ABOUT ASPECTS OF HIS OR HER LIFE IN THE FACILITY THAT ARE SIGNIFICANT TO THE RESIDENT.

(4) PARTICIPATION IN RESIDENT AND FAMILY GROUPS.

(a) A RESIDENT HAS THE RIGHT TO ORGANIZE AND PARTICIPATE IN RESIDENT GROUPS IN THE NURSING HOME;

(b) A RESIDENT'S FAMILY HAS THE RIGHT TO MEET IN THE NURSING HOME WITH THE FAMILIES OF OTHER RESIDENTS IN THE FACILITY;

(c) THE NURSING HOME SHALL PROVIDE A RESIDENT OR FAMILY GROUP, IF ONE EXISTS, WITH PRIVATE SPACE;

(d) STAFF OR VISITORS MAY ATTEND MEETINGS AT THE GROUP'S INVITATION;

(e) THE NURSING HOME SHALL PROVIDE A DESIGNATED STAFF PERSON RESPONSIBLE FOR PROVIDING ASSISTANCE AND RESPONDING TO WRITTEN REQUESTS THAT RESULT FROM GROUP MEETINGS; AND

(f) WHEN A RESIDENT OR FAMILY GROUP EXISTS, THE NURSING HOME SHALL LISTEN TO THE VIEWS AND ACT UPON THE GRIEVANCES AND RECOMMENDATIONS OF RESIDENTS AND FAMILIES CONCERNING PROPOSED POLICY AND OPERATIONAL DECISIONS AFFECTING RESIDENT CARE AND LIFE IN THE NURSING HOME.

(5) PARTICIPATION IN OTHER ACTIVITIES.

A RESIDENT HAS THE RIGHT TO PARTICIPATE IN SOCIAL, RELIGIOUS, AND COMMUNITY ACTIVITIES THAT DO NOT INTERFERE WITH THE RIGHTS OF OTHER RESIDENTS IN THE NURSING HOME.

(6) ACCOMMODATION OF NEEDS. A RESIDENT HAS THE RIGHT TO RESIDE AND RECEIVE SERVICES IN THE NURSING HOME WITH REASONABLE ACCOMMODATION OF INDIVIDUAL NEEDS AND PREFERENCES, EXCEPT WHEN THE HEALTH OR SAFETY OF THE INDIVIDUAL OR OTHER RESIDENTS WOULD BE ENDANGERED;

(7) ACTIVITIES.

THE NURSING HOME SHALL:

(a) PROVIDE FOR AN ONGOING PROGRAM OF ACTIVITIES DESIGNED TO MEET, IN ACCORDANCE WITH THE COMPREHENSIVE ASSESSMENT, THE INTERESTS AND THE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BEING OF EACH RESIDENT;

(b) Provide activities meaningful to the residents seven days a week at various times throughout the day and evening based on individual resident's need and preference;

(c) THE ACTIVITIES PROGRAM MUST BE DIRECTED BY A QUALIFIED PROFESSIONAL WHO:

(i) IS A QUALIFIED THERAPEUTIC RECREATION SPECIALIST OR AN ACTIVITIES PROFESSIONAL WHO:

(A) IS LICENSED OR REGISTERED, IF APPLICABLE, BY THE STATE IN WHICH PRACTICING; AND

(B) IS ELIGIBLE FOR CERTIFICATION AS A THERAPEUTIC RECREATION SPECIALIST OR AS AN ACTIVITIES PROFESSIONAL BY A RECOGNIZED ACCREDITING BODY ON OR AFTER OCTOBER 1, 1990; OR

(ii) HAS TWO YEARS OF EXPERIENCE IN A SOCIAL OR RECREATIONAL PROGRAM WITHIN THE LAST FIVE YEARS, ONE OF WHICH WAS FULL-TIME IN A PATIENT ACTIVITIES PROGRAM IN A HEALTH CARE SETTING; OR

(iii) HAS COMPLETED A TRAINING COURSE APPROVED BY THE STATE.

(8) SOCIAL SERVICES.

(a) THE NURSING HOME SHALL PROVIDE MEDICALLY-RELATED SOCIAL SERVICES TO ATTAIN OR MAINTAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BEING OF EACH RESIDENT.

(b) A NURSING HOME WITH MORE THAN ONE HUNDRED TWENTY BEDS SHALL EMPLOY A QUALIFIED SOCIAL WORKER ON A FULL-TIME BASIS.

(c) A QUALIFIED SOCIAL WORKER IS AN INDIVIDUAL WITH:

(i) A BACHELOR'S DEGREE IN SOCIAL WORK OR A BACHELOR'S DEGREE IN A HUMAN SERVICES FIELD INCLUDING BUT NOT LIMITED TO SOCIOLOGY, SPECIAL EDUCATION, REHABILITATION COUNSELING, AND PSYCHOLOGY; AND

(ii) ONE YEAR OF SUPERVISED SOCIAL WORK EXPERIENCE IN A HEALTH CARE SETTING WORKING DIRECTLY WITH INDIVIDUALS.

(9) ENVIRONMENT. The nursing home shall:

(a) PROVIDE A SAFE, CLEAN, COMFORTABLE, AND HOME-LIKE ENVIRONMENT, ALLOWING THE RESIDENT TO USE HIS OR HER PERSONAL BELONGINGS TO THE EXTENT POSSIBLE;

(b) Provide housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior; and

(c) Maintain comfortable sound levels, to include:

(i) Minimizing the use of the public address system to ensure each use is in the best interest of the residents; and

(ii) Taking reasonable precautions with noisy services so as not to disturb residents, particularly during their sleeping time.

(10) PETS.

(a) Each resident shall have a reasonable opportunity to have regular contact with animals.

(b) The nursing home shall consider the recommendations of nursing home residents, resident councils, and staff, and shall:

- (i) Determine the method or methods of providing residents access to animals;
 - (ii) Determine the type and number of animals available in the facility. Such animals may include those customarily considered domestic pets. Wild or exotic animals prohibited as pets under state law are not allowed;
 - (iii) Ensure the rights, preferences, and medical needs of an individual resident is not compromised by the presence of an animal; and
 - (iv) Ensure any animal visiting or living on the premises has a suitable temperament, is healthy, and otherwise poses no significant health or safety risks to residents, staff, or visitors.
- (c) Animals living on the nursing home premises shall:
- (i) Have regular examinations and immunizations, appropriate for the species, by a veterinarian licensed in Washington state; and
 - (ii) Be veterinarian certified to be free of diseases transmittable to humans.
 - (d) Pets shall be restricted from areas where food is prepared, treatments are being performed, or when residents object to the presence of pets.

ASSESSMENT AND PLANS OF CARE

NEW SECTION

WAC 388-97-145 Resident assessment (1) Medicaid-certified nursing facilities in compliance with federal requirements at C.F.R. §483.20 will be deemed to meet this section.

(2) THE NURSING HOME SHALL PROVIDE RESIDENT CARE BASED ON A SYSTEMATIC, COMPREHENSIVE, INTERDISCIPLINARY ASSESSMENT, AND CARE PLANNING PROCESS IN WHICH THE RESIDENT ACTIVELY PARTICIPATES.

(3) THE NURSING HOME SHALL:

(a) CONDUCT INITIALLY AND PERIODICALLY A COMPREHENSIVE, ACCURATE, STANDARDIZED, REPRODUCIBLE ASSESSMENT OF EACH RESIDENT'S FUNCTIONAL CAPACITY.

(b) AT THE TIME EACH RESIDENT IS ADMITTED, HAVE PHYSICIAN ORDERS FOR THE RESIDENT'S IMMEDIATE CARE; AND

(c) ENSURE THAT THE COMPREHENSIVE ASSESSMENT OF A RESIDENT'S NEEDS DESCRIBES THE RESIDENT'S CAPABILITY TO PERFORM DAILY LIFE FUNCTIONS AND SIGNIFICANT IMPAIRMENTS IN FUNCTIONAL CAPACITY.

(4) THE COMPREHENSIVE ASSESSMENT SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(a) MEDICALLY DEFINED CONDITIONS AND PRIOR MEDICAL HISTORY;

(b) MEDICAL STATUS MEASUREMENT;

(c) PHYSICAL AND MENTAL FUNCTIONAL STATUS;

(d) SENSORY AND PHYSICAL IMPAIRMENTS;

(e) NUTRITIONAL STATUS AND REQUIREMENTS;

(f) SPECIAL TREATMENTS OR PROCEDURES;

(g) MENTAL AND PSYCHOSOCIAL STATUS;

(h) DISCHARGE POTENTIAL;

(i) DENTAL CONDITION;

(j) ACTIVITIES POTENTIAL;

(k) REHABILITATION POTENTIAL;

(l) COGNITIVE STATUS; AND

(m) DRUG THERAPY.

(5) THE NURSING HOME SHALL CONDUCT COMPREHENSIVE ASSESSMENTS:

(a) NO LATER THAN FOURTEEN DAYS AFTER THE DATE OF ADMISSION;

(b) PROMPTLY AFTER A SIGNIFICANT CHANGE IN THE RESIDENT'S PHYSICAL OR MENTAL CONDITION; AND

(c) IN NO CASE LESS OFTEN THAN ONCE EVERY TWELVE MONTHS.

(6) THE NURSING HOME SHALL ENSURE:

(a) EACH RESIDENT IS EXAMINED NO LESS THAN ONCE EVERY THREE MONTHS, AND AS APPROPRIATE, THE RESIDENT'S ASSESSMENT IS REVISED TO ASSURE THE CONTINUED ACCURACY OF THE ASSESSMENT; AND

(b) THE RESULTS OF THE ASSESSMENT ARE USED TO DEVELOP, REVIEW AND REVISE THE RESIDENT'S COMPREHENSIVE PLAN OF CARE UNDER WAC 388-97-150, COMPREHENSIVE CARE PLANNING.

NEW SECTION

WAC 388-97-150 Comprehensive care planning. (1) Medicaid-certified nursing facilities in compliance with federal regulations at 42 C.F.R. §483.20 will be deemed to meet subsections (2) and (3) of this section.

(2) THE NURSING HOME SHALL DEVELOP A COMPREHENSIVE CARE PLAN FOR EACH RESIDENT THAT INCLUDES MEASURABLE OBJECTIVES AND TIMETABLES TO MEET A RESIDENT'S MEDICAL, NURSING AND MENTAL AND PSYCHOSOCIAL NEEDS THAT ARE IDENTIFIED IN THE COMPREHENSIVE ASSESSMENT.

(3) THE COMPREHENSIVE CARE PLAN SHALL:

(a) DESCRIBE THE SERVICES THAT ARE TO BE FURNISHED TO ATTAIN OR MAINTAIN THE RESIDENT'S HIGHEST PRACTICABLE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL-BEING AS REQUIRED UNDER WAC 388-97-170, QUALITY OF CARE;

(b) DESCRIBE ANY SERVICES THAT WOULD OTHERWISE BE REQUIRED, BUT ARE NOT PROVIDED DUE TO THE RESIDENT'S EXERCISE OF RIGHTS, INCLUDING THE RIGHT TO REFUSE TREATMENT; (REFER TO WAC 388-97-130, RESIDENT RIGHTS, AND WAC 388-97-120, INFORMED CONSENT)

(c) BE DEVELOPED WITHIN SEVEN DAYS AFTER COMPLETION OF THE COMPREHENSIVE ASSESSMENT;

(d) BE PREPARED BY AN INTERDISCIPLINARY TEAM THAT INCLUDES THE ATTENDING PHYSICIAN, A REGISTERED NURSE WITH RESPONSIBILITY FOR THE RESIDENT, AND OTHER APPROPRIATE STAFF IN DISCIPLINES AS DETERMINED BY THE RESIDENTS NEEDS; AND

(e) INCLUDE THE PARTICIPATION OF THE RESIDENT, THE RESIDENT'S FAMILY OR THE RESIDENT'S LEGAL REPRESENTATIVE.

(4) The nursing home shall:

(a) Follow the informed consent process with the resident as specified in WAC 388-97-120, Informed consent, regarding the interdisciplinary team's care plan recommendations;

(b) Respect the resident's right to decide care plan goals and treatment choices, including acceptance or refusal of care plan recommendations;

(c) Include in the interdisciplinary care planning process:

(i) Staff members requested by the resident; and

(ii) Direct care staff who work most closely with the resident;

(d) Respect the resident's wishes regarding which persons, if any, the resident wants to take part in resident care planning functions;

(e) Provide reasonable advance notice to and reasonably accommodate the resident, the resident's surrogate decision maker, family members or other persons the resident wishes to have attend, when scheduling care planning meeting time; and

(f) Where for practical reasons any persons significant to the care planning process are unable to attend care planning meetings, provide a method for such persons to give timely input and recommendations.

(5) The nursing home shall ensure that resident care plans include:

- (a) Designation of persons responsible for carrying out the program; and
- (b) Review of the comprehensive care plan at least quarterly by qualified staff.

NEW SECTION

WAC 388-97-155 Dementia care unit. (1) The nursing home with a dementia care unit shall ensure that the unit provides residents with an optimal environment to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Therefore, the nursing home shall:

- (a) Follow the process of informed consent/refusal before resident admission to or discharge from the unit;
- (b) Base the determination of resident's admission to or transfer from the unit on the comprehensive assessment and care plan;
- (c) Provide notification of additional charges, if any, for services and items in the unit; and
- (d) Train unit staff in the special needs and care approaches applicable to residents with dementia. Such training shall be consistent with requirements under WAC 388-97-240 (2)(b).

(2) In the case of a person admitted directly to the special care unit from outside the nursing home, the nursing home may complete comprehensive assessment after the person's admission to the unit, provided that Medicaid-certified nursing facilities must comply with required time frames for completion of the resident assessment instrument as described under WAC 388-97-105, Resident assessment instrument.

NEW SECTION

WAC 388-97-160 Discharge planning. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.20(e) will be deemed to meet subsection (8) of this section.

(2) A resident shall have the right to attain or maintain the highest practicable physical, mental, and psychosocial well-being, and to reside in the most independent setting. Therefore, the nursing home shall:

- (a) Utilize a formal resident discharge planning system with identical policies and practices for all residents regardless of source of payment;
- (b) Inform the resident or resident's representative in writing of the nursing home's discharge planning system when the resident is admitted or as soon as practical after the resident's admission, including:
 - (i) Specific resources available to assist the resident in locating a lesser care setting;
 - (ii) The name of the nursing home's discharge coordinator;
 - (iii) In the case of a Medicaid-certified nursing facility, the address and telephone number for the local aging and adult home and community services office; and
 - (iv) In the case of a resident identified through PASARR as having a developmental disability, the address and telephone number for the division of developmental disabilities.

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

- (a) Develop and implement the plan with the active participation of the resident and, where appropriate, the resident's surrogate decision maker or representative;
- (b) In the case of a Medicaid resident, coordinate the plan with aging and adult home and community services staff;
- (c) In the case of a resident identified through PASARR as having a developmental disability, coordinate the plan with the division of developmental disabilities;
- (d) Ensure the plan is an integral part of the resident's comprehensive plan of care and, as such, includes measurable objectives and timetables for completion;
- (e) Incorporate in the plan relevant factors to include, but not be limited to:
 - (i) The resident's preferences;
 - (ii) Support system;
 - (iii) Assessments and plan of care; and
 - (iv) Availability of appropriate resources to match the resident's preferences and needs.
- (f) Identify in the plan specific options for more independent placement; and
- (g) Provide in the plan for the resident's continuity of care and mitigation of potential transfer trauma, including, but not limited to, pretransfer visit to the new location whenever possible.

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

- (a) Document the specific reasons transfer or discharge is not anticipated in that timeframe;
 - (b) Review the resident's potential for transfer or discharge at the time of the quarterly comprehensive care plan review. If the reasons documented under subsection (4)(a) of this section are unchanged, no additional documentation of reasons is necessary at the time of care plan review.
- (5) The nursing home shall initiate discharge planning on residents described in subsection (4) of this section:

- (a) At the request of the resident or the resident's representative; and
 - (b) When the resident's situation or status indicates transfer or discharge potential within the next three months.
- (6) Each resident shall have the right to request transfer or discharge and to choose a new location. If the resident chooses to leave, the nursing home shall assist with and coordinate the resident's transfer or discharge. The resident, resident's representative, or nursing facility may request assistance from aging and adult home and community services or, where applicable, the division of developmental disabilities in the transfer or discharge planning and implementation process.

(7) The nursing home shall coordinate all resident transfers and discharges with the parties involved.

(8) WHEN A NURSING HOME ANTICIPATES DISCHARGE, A RESIDENT MUST HAVE A DISCHARGE SUMMARY THAT INCLUDES:

- (a) A RECAPITULATION OF THE RESIDENT'S STAY;
- (b) A FINAL SUMMARY OF THE RESIDENT'S STATUS TO INCLUDE ITEMS IN WAC 388-97-145(2), RESIDENT ASSESSMENT, AT THE TIME OF DISCHARGE THAT IS AVAILABLE FOR RELEASE

TO AUTHORIZED PERSONS AND AGENCIES, WITH THE CONSENT OF THE RESIDENT OR LEGAL REPRESENTATIVE; AND

(c) A POST-DISCHARGE PLAN OF CARE THAT IS DEVELOPED WITH THE PARTICIPATION OF THE RESIDENT AND HIS OR HER FAMILY, WHICH WILL ASSIST THE RESIDENT TO ADJUST TO HIS OR HER NEW LIVING ENVIRONMENT.

NEW SECTION

WAC 388-97-165 Relocation due to decertification, license revocation closure, evacuation. (1) When the department or the federal Health Care Financing Administration terminates or does not renew a nursing home's Medicaid certification, or the department revokes or suspends the nursing home's license or orders emergency closure of a nursing home, the department shall:

(a) Notify residents and, when appropriate, resident representatives of the action; and
(b) Assist with residents' relocation and specify the location of possible alternative locations.

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

(a) The nursing home shall:
(i) Send written notification, sixty days before closure or contract termination, to the appropriate nursing home services district manager and to all residents; and
(ii) Provide appropriate discharge planning and coordination for all residents.

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

(3) The nursing home shall immediately report to the department's aging and adult services administration:

(a) Any event, actual or potential, requiring the evacuation of all or part of the nursing home's residents to another address; and

(b) Circumstances which threaten the nursing home's ability to ensure continuation of services to residents.

QUALITY OF CARE

NEW SECTION

WAC 388-97-170 Quality of care. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.25 will be deemed to meet subsections (2) through (4) of this section, except for (4)(m), (4)(n), and (5).

(2) EACH RESIDENT SHALL RECEIVE AND THE NURSING HOME SHALL PROVIDE THE NECESSARY CARE AND SERVICES TO ATTAIN OR MAINTAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL AND PSYCHOSOCIAL WELL-BEING, SELF-CARE AND INDEPENDENCE IN ACCORDANCE WITH COMPREHENSIVE ASSESSMENT AND PLAN OF CARE.

(3) BASED ON THE COMPREHENSIVE ASSESSMENT OF A RESIDENT, THE NURSING HOME SHALL ENSURE THAT:

(a) A RESIDENT'S ABILITIES IN ACTIVITIES OF DAILY LIVING DO NOT DIMINISH UNLESS CIRCUMSTANCES OF THE RESIDENT'S CLINICAL CONDITION DEMONSTRATE THAT DIMINUTION WAS UNAVOIDABLE. THIS INCLUDES THE RESIDENT'S ABILITY TO:

(i) BATHE, DRESS, AND GROOM;
(ii) TRANSFER AND AMBULATE;
(iii) TOILET;
(iv) EAT; AND
(v) USE SPEECH, LANGUAGE, OR OTHER FUNCTIONAL COMMUNICATION SYSTEMS.

(vi) A RESIDENT WHO IS UNABLE TO CARRY OUT ACTIVITIES OF DAILY LIVING RECEIVES THE NECESSARY SERVICES TO MAINTAIN GOOD NUTRITION, GROOMING, AND PERSONAL AND ORAL HYGIENE.

(b) A RESIDENT IS GIVEN THE APPROPRIATE TREATMENT AND SERVICES TO MAINTAIN OR IMPROVE THE RESIDENT'S ABILITIES SPECIFIED IN SUBSECTION (3)(a) OF THIS SECTION; AND

(c) A RESIDENT WHO IS UNABLE TO CARRY OUT ACTIVITIES OF DAILY LIVING RECEIVES THE NECESSARY SERVICES TO MAINTAIN GOOD NUTRITION, GROOMING, AND PERSONAL AND ORAL HYGIENE.

(4) THE NURSING HOME SHALL ENSURE APPROPRIATE CARE AND SERVICES ARE PROVIDED TO THE RESIDENT IN THE FOLLOWING AREAS, AS APPLICABLE IN ACCORDANCE WITH THE RESIDENT'S INDIVIDUALIZED ASSESSMENTS AND CARE PLAN:

(a) VISION AND HEARING;
(b) SKIN;
(c) CONTINENCE;
(d) RANGE OF MOTION;
(e) MENTAL AND PSYCHOSOCIAL FUNCTIONING AND ADJUSTMENT;
(f) NASOGASTRIC TUBES;
(g) ACCIDENT PREVENTION;
(h) NUTRITION;
(i) HYDRATION;
(j) SPECIAL NEEDS, INCLUDING:
(i) INJECTIONS;
(ii) PARENTERAL AND ENTERAL FLUIDS;
(iii) COLOSTOMY, URETEROSTOMY, OR ILEOSTOMY CARE;
(iv) TRACHEOSTOMY CARE;
(v) TRACHEAL SUCTION;
(vi) RESPIRATORY CARE;
(vii) FOOT CARE; AND
(viii) PROSTHESES.
(l) MEDICATIONS, INCLUDING FREEDOM FROM:
(i) UNNECESSARY DRUGS;
(ii) NURSING HOME ERROR RATE OF FIVE PERCENT OR GREATER; AND
(iii) SIGNIFICANT MEDICATION ERRORS.
(m) Self-administration of medication; and
(n) Independent living skills.

(5) The nursing home shall ensure each resident is monitored for desired responses and undesirable side effects of prescribed drugs.

NURSING SERVICES

NEW SECTION

WAC 388-97-175 Nursing services. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.30 will be deemed to meet subsections (2) and (3) of this section.

(2) THE NURSING HOME SHALL ENSURE A SUFFICIENT NUMBER OF QUALIFIED NURSING PERSONNEL ARE AVAILABLE ON A TWENTY-FOUR HOUR BASIS SEVEN DAYS PER WEEK TO PROVIDE NURSING AND RELATED SERVICES TO ATTAIN OR MAINTAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL AND PSYCHOSOCIAL WELL-BEING OF EACH RESIDENT AS DETERMINED BY RESIDENT ASSESSMENTS AND INDIVIDUAL PLANS OF CARE.

(3) THE NURSING HOME SHALL:

(a) DESIGNATE A REGISTERED NURSE OR LICENSED PRACTICAL NURSE TO SERVE AS CHARGE NURSE ACCOUNTABLE FOR NURSING SERVICES ON EACH TOUR OF DUTY; AND
(b) HAVE A FULL TIME DIRECTOR OF NURSING SERVICE WHO SHALL BE A REGISTERED NURSE.

(4) The nursing home shall have:

(a) A registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week; and

(b) A registered nurse or licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week.

(c) In intermediate care facilities for the mentally retarded (ICF/MR), there shall be at least one registered nurse or licensed practical nurse on duty eight hours per day, and additional licensed staff on any shifts if indicated.

(5) The nursing home shall ensure that staff respond to each resident's requests for assistance in a manner which promptly meets the quality of life and quality of care needs of all the residents.

(6) The director of nursing services shall be responsible for:

(a) Coordinating the plan of care for each resident;

(b) Ensuring registered nurses comply with chapter 18.88 RCW, and licensed practical nurses comply with chapter 18.78 RCW; and

(c) Ensuring nursing care is based on the nursing process in accordance with nationally recognized and accepted standards of professional nursing practice.

DIETARY SERVICES

NEW SECTION

WAC 388-97-180 Dietary services. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.35 will be deemed to meet subsections (2), (3), (8), (9), (10), (12)(a) and (13) of this section.

(2) THE NURSING HOME SHALL PROVIDE EACH RESIDENT WITH A NOURISHING, PALATABLE, WELL-BALANCED DIET THAT MEETS THE DAILY NUTRITIONAL AND SPECIAL DIETARY NEEDS OF EACH RESIDENT. THE FOOD SHALL BE SERVED IN SUCH A MANNER TO BE ATTRACTIVE AND AT TEMPERATURES SAFE AND ACCEPTABLE TO THE RESIDENT.

(3) THE NURSING HOME SHALL PROVIDE A MINIMUM OF THREE MEALS IN EACH TWENTY-FOUR HOUR PERIOD, AT REGULAR TIMES COMPARABLE TO NORMAL MEAL TIMES IN THE COMMUNITY.

(4) The nursing home shall make available to residents on a daily basis fresh fruits and vegetables in season.

(5) The nursing home shall make reasonable efforts to:

(a) Accommodate individual mealtime preferences and portion sizes, as well as preferences for between meal and evening snacks when not medically contraindicated;

(b) Offer breakfast served later or an alternative to the regular breakfast for late risers; and

(c) Provide food consistent with the cultural and religious needs of the residents.

(6) The nursing home shall obtain input from residents and/or resident councils in meal planning, scheduling, and the menu selection process.

(7) The nursing home shall:

(a) Encourage residents to continue eating independently;

(b) Provide effective adaptive utensils as needed to promote independence;

(c) Allow sufficient time for eating in a relaxed manner;

(d) Provide individualized assistance as needed; and

(e) Provide table service, in a dining area/room, located outside of the resident's room, to all residents capable of eating at a table.

(8) THE NURSING HOME SHALL HAVE SUFFICIENT SUPPORT PERSONNEL COMPETENT TO CARRY OUT THE FUNCTIONS OF DIETARY SERVICE.

(9) THE FACILITY SHALL EMPLOY A REGISTERED AND CERTIFIED OR LICENSED DIETITIAN EITHER FULL-TIME, PART-TIME OR ON A CONSULTANT BASIS.

(10) IF A QUALIFIED DIETITIAN IS NOT EMPLOYED FULL-TIME, THE FACILITY SHALL EMPLOY A FOOD SERVICE MANAGER TO SERVE AS THE DIRECTOR OF FOOD SERVICE.

(11) The food service manager means a person who:

(a) Has completed a dietetic technician or dietetic assistant training program, correspondence or classroom, approved by the American Dietetic Association/Dietary Manager Association; or

(b) Has completed a state-approved training program providing ninety or more hours of classroom instruction in food service supervision, and has experience in a health care institution; and

(c) Receives regularly scheduled consultation from a qualified dietitian. Consultation services include:

(i) Nutrition assessment;

(ii) Liaison with medical and nursing staff and administrator;

(iii) Inservice training;

(iv) Guidance to the director of food service and food service staff; and

(v) Approval of regular and therapeutic menus.

(12) THE DIETITIAN SHALL:

(a) APPROVE MENUS WHICH MEET THE DIETARY ALLOWANCES OF THE FOOD AND NUTRITION BOARD OF THE NATIONAL RESEARCH COUNCIL, NATIONAL ACADEMY OF SCIENCES; AND

(b) Prepare dated menus for general and modified diets at least three weeks in advance; and

(c) Retain dated menus, dated records of foods received, a record of the number of meals served, and standardized recipes for at least three months for department review as necessary.

(13) WHEN A RESIDENT REFUSES FOOD SERVED, THE FACILITY SHALL OFFER A SUBSTITUTE OF A SIMILAR NUTRITIVE VALUE.

(14) The nursing home shall:

(a) Ensure menus are followed;

(b) Post the current dated general menu, including substitutions, in the food service area and in a place accessible and conspicuous to residents and visitors; and

(c) Note any variations, to the regular menu on the menu.

(15) The nursing home shall:

(a) Ensure residents' diets are provided as prescribed by the physician. Diet modifications for texture only may be used as an interim measure when ordered by a registered nurse; and

(b) Provide supplementary fluids and nourishments in accordance with the resident's individual needs as determined by the assessment process.

(16) The nursing home shall review a resident's modified diet to ensure the food form and texture are consistent with the resident's current needs and functional level:

(a) At the request of the resident;

(b) When the resident's condition warrants; and

(c) At the time of the care plan review.

(17) The nursing home shall ensure:

(a) A resident's tube feedings are of uniform consistency and quality; and

(b) Tube feedings are prepared, stored, distributed, and served in such a manner so as to maintain uniformity and to prevent contamination.

(18) The nursing home shall ensure food service is in compliance with chapter 246-215 WAC, rules and regulations of the state board of health governing food services sanitation.

PHYSICIAN SERVICES

NEW SECTION

WAC 388-97-185 Physician services. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.40 will be deemed to meet subsections (2) through (9) of this section.

(2) EXCEPT AS SPECIFIED IN RCW 74.42.200, A PHYSICIAN SHALL PERSONALLY APPROVE IN WRITING A RECOMMENDATION THAT A PERSON BE ADMITTED TO A NURSING HOME.

(3) THE NURSING HOME SHALL ENSURE THAT:

(a) EXCEPT AS SPECIFIED IN RCW 74.42.200, THE MEDICAL CARE OF EACH RESIDENT IS SUPERVISED BY A PHYSICIAN; AND

(b) ANOTHER PHYSICIAN SUPERVISES THE MEDICAL CARE OF RESIDENTS WHEN THEIR ATTENDING PHYSICIAN IS UNAVAILABLE.

(4) THE NURSING HOME SHALL PROVIDE, OR ARRANGE FOR THE PROVISION, OF PHYSICIAN SERVICES TWENTY-FOUR HOURS PER DAY, IN CASE OF EMERGENCY.

(5) THE PHYSICIAN SHALL:

(a) REVIEW THE RESIDENT'S TOTAL PROGRAM OF CARE, INCLUDING MEDICATIONS AND TREATMENTS, AT EACH FEDERALLY REQUIRED VISIT;

(b) WRITE, SIGN AND DATE PROGRESS NOTES AT EACH VISIT; AND

(c) SIGN AND DATE ALL ORDERS.

(6) EXCEPT AS SPECIFIED IN SUBSECTIONS (7) AND (8) OF THIS SECTION, A PHYSICIAN MAY DELEGATE TASKS TO A PHYSICIAN'S ASSISTANT OR ADVANCED REGISTERED NURSE PRACTITIONER WHO IS:

(a) LICENSED BY THE STATE;

(b) ACTING WITHIN THE SCOPE OF PRACTICE AS DEFINED BY STATE LAW; AND

(c) UNDER THE SUPERVISION OF THE PHYSICIAN.

(7) THE PHYSICIAN MAY NOT DELEGATE A TASK WHEN THE DELEGATION IS PROHIBITED UNDER STATE LAW OR BY THE FACILITY'S OWN POLICIES.

(8) IN THE MEDICARE-CERTIFIED PORTION OF THE FACILITY, THE PHYSICIAN MAY:

(a) ALTERNATE FEDERALLY REQUIRED PHYSICIAN VISITS BETWEEN PERSONAL VISITS BY:

(i) THE PHYSICIAN; AND

(ii) AN ADVANCED REGISTERED NURSE PRACTITIONER OR PHYSICIAN'S ASSISTANT; AND

(b) NOT DELEGATE RESPONSIBILITY FOR THE INITIAL REQUIRED PHYSICIAN VISIT.

(9) IN MEDICAID-CERTIFIED NURSING FACILITIES THE PHYSICIAN MAY DELEGATE ANY FEDERALLY REQUIRED PHYSICIAN TASK, INCLUDING TASKS WHICH THE REGULATIONS SPECIFY MUST BE PERFORMED PERSONALLY BY THE PHYSICIAN, TO A PHYSICIAN'S ASSISTANT OR ADVANCED REGISTERED NURSE PRACTITIONER WHO IS NOT AN EMPLOYEE OF THE FACILITY BUT WHO IS WORKING IN COLLABORATION WITH A PHYSICIAN.

(10) The attending physician, or the physician-designated advanced registered nurse practitioner or physician's assistant shall:

(a) Participate in the interdisciplinary care planning process as described in WAC 388-97-150;

(b) Provide to the resident, or where applicable the resident's surrogate decision maker, information so the

resident can make an informed consent to or refusal of care (see WAC 388-97-120, Informed consent); and

(c) Order resident self-medication when appropriate.

(11) The nursing home shall have the following medical information before or at the time of the resident's admission:

(a) A history and physical reflecting review of systems and the resident's current health status;

(b) Orders, as necessary for medications, treatments, diagnostic studies, specialized rehabilitative services, diet, and any restrictions related to physical mobility; and

(c) Plans for continuing care and discharge.

SPECIALIZED HABILITATIVE AND REHABILITATIVE SERVICES

NEW SECTION

WAC 388-97-190 Specialized habilitative and rehabilitative services. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.45 will be deemed to meet subsection (2) of this section.

(2) IF SPECIALIZED HABILITATIVE AND REHABILITATIVE SERVICES SUCH AS, BUT NOT LIMITED TO, PHYSICAL THERAPY, SPEECH-LANGUAGE PATHOLOGY, OCCUPATIONAL THERAPY, AND HEALTH REHABILITATIVE SERVICES FOR MENTAL ILLNESS AND MENTAL RETARDATION, ARE REQUIRED IN THE RESIDENT'S COMPREHENSIVE PLAN OF CARE, THE FACILITY SHALL:

(a) PROVIDE THE REQUIRED SERVICES; OR

(b) OBTAIN THE REQUIRED SERVICES FROM AN OUTSIDE PROVIDER OF SPECIALIZED REHABILITATIVE SERVICES.

(3) As determined by the resident's individualized comprehensive care plan, qualified therapists, as defined in WAC 388-96-010, shall provide specialized habilitative or rehabilitative services under the written order of the physician. At the qualified therapist's discretion, certain services may be delegated to and provided by support personnel under appropriate supervision.

(4) The nursing home may provide specialized rehabilitative and habilitative services to outpatients on the facility premises.

PHARMACY SERVICES

NEW SECTION

WAC 388-97-195 Pharmacy services. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.60 will be deemed to meet subsections (2) and (3) of this section.

(2) THE NURSING HOME SHALL:

(a) OBTAIN ROUTINE AND EMERGENCY DRUGS AND BIOLOGICALS FOR ITS RESIDENTS UNDER AN AGREEMENT WITH A LICENSED PHARMACY;

(b) ENSURE THAT PHARMACEUTICAL SERVICES:

(i) MEET THE NEEDS OF EACH RESIDENT;

(ii) ESTABLISH AND MONITOR SYSTEMS FOR THE ACCURATE ACQUIRING, RECEIVING, DISPENSING, AND ADMINISTERING OF ALL DRUGS AND BIOLOGICALS; AND

(c) EMPLOY OR OBTAIN THE SERVICES OF A LICENSED PHARMACIST WHO SHALL:

(i) PROVIDE CONSULTATION ON ALL ASPECTS OF THE PROVISION OF PHARMACY SERVICES IN THE NURSING HOME;

(ii) DETERMINE THAT NURSING HOME DRUG RECORDS ARE IN ORDER;

(iii) PERFORM REGULAR REVIEWS AT LEAST ONCE EACH MONTH OF EACH RESIDENT'S DRUG THERAPY; AND

(iv) DOCUMENT AND REPORT DRUG IRREGULARITIES TO THE ATTENDING PHYSICIAN AND THE DIRECTOR OF NURSING.

(3) DRUGS AND BIOLOGICALS USED IN THE NURSING HOME SHALL BE LABELED AND STORED IN ACCORDANCE WITH APPLICABLE STATE AND FEDERAL LAWS.

(4) The nursing home shall provide pharmaceutical services that:

(a) Meet recognized and accepted standards of pharmacy practice; and

(b) Comply with chapter 246-865 WAC, Pharmaceutical Services-Extended Care Facility, except nursing home staff administering drugs to residents may document administration at the time of pouring the drug or immediately after administration.

(5) The nursing home shall ensure:

(a) Education and training for nursing home staff by the licensed pharmacist on drug-related subjects including, but not limited to:

(i) Recognized and accepted standards of pharmacy practice and applicable pharmacy laws and rules;

(ii) Appropriate monitoring of residents by staff to determine desired effect and undesirable side effects of drug regimens; and

(iii) Use of psychotropic drugs.

(b) Pharmacist monthly drug review reports are acted on in a timely and effective manner;

(c) Accurate detection, documentation, reporting and resolution of drug errors and adverse drug reactions;

(d) Only persons authorized by state law to do so shall receive drug orders and administer drugs;

(6) The resident shall have the choice of pharmacies when purchasing prescription and nonprescription drugs as long as the following conditions are met to ensure the resident is protected from medication errors:

(a) The medications are delivered in a unit of use compatible with the established system of the facility for dispensing drugs; and

(b) The medications are delivered in a timely manner to prevent interruption of dose schedule.

INFECTION CONTROL

NEW SECTION

WAC 388-97-205 Infection control. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.65 will be deemed to meet the requirements of subsections (2), (3) and (4).

(2) THE NURSING HOME SHALL:

(a) ESTABLISH AND MAINTAIN AN EFFECTIVE INFECTION CONTROL PROGRAM DESIGNED TO PROVIDE A SAFE, SANITARY, AND COMFORTABLE ENVIRONMENT AND TO HELP PREVENT THE DEVELOPMENT AND TRANSMISSION OF DISEASE AND INFECTION;

(b) PROHIBIT ANY EMPLOYEE WITH A COMMUNICABLE DISEASE OR INFECTED SKIN LESION FROM DIRECT CONTACT WITH RESIDENTS OR THEIR FOOD, IF DIRECT CONTACT COULD TRANSMIT THE DISEASE; AND

(c) REQUIRE STAFF TO WASH THEIR HANDS AFTER EACH DIRECT RESIDENT CONTACT FOR WHICH HANDWASHING IS INDICATED BY ACCEPTED PROFESSIONAL PRACTICE.

(3) UNDER THE INFECTION CONTROL PROGRAM, THE NURSING HOME SHALL:

(a) INVESTIGATE, CONTROL AND PREVENT INFECTIONS IN THE FACILITY;

(b) DECIDE WHAT PROCEDURES SHOULD BE APPLIED IN INDIVIDUAL CIRCUMSTANCES; AND

(c) MAINTAIN A RECORD OF INCIDENCE OF INFECTION AND CORRECTIVE ACTION TAKEN.

(4) NURSING HOME PERSONNEL MUST HANDLE, STORE, PROCESS, AND TRANSPORT LINENS SO AS TO PREVENT THE SPREAD OF INFECTION.

(5) The nursing home shall report any case or suspected case of a reportable disease to the appropriate department of health officer.

(6) The nursing home shall develop and implement effective methods for the safe storage, transport and disposal of garbage, refuse and infectious waste, consistent with all applicable local, state, and federal requirements for such disposal.

(7) The nursing home shall provide areas, equipment, and supplies to implement an effective infection control program. The nursing home shall ensure:

(a) Ready availability of hand cleaning supplies and appropriate drying equipment or material at each sink;

(b) Safe use of disposable and single service supplies and equipment;

(c) Effective procedures for cleaning, disinfecting or sterilizing according to equipment use;

(d) Chemicals and equipment used for cleaning, disinfecting, and sterilizing, including chemicals used to launder personal clothing, are used in accordance with manufacturer's directions and recommendations; and

(e) Safe and effective procedures for disinfecting:

(i) All bathing and therapy tubs between each resident use; and

(ii) Swimming pools, spas and hot tubs.

NEW SECTION

WAC 388-97-210 Early identification of persons with active tuberculosis. The nursing home shall take steps to identify in a timely manner and follow-up residents and personnel who have active tuberculosis.

(1) The nursing home shall administer and interpret initial and follow-up tuberculin skin tests by the Mantoux method according to guidelines from the Centers on Disease Control. The nursing home shall ensure:

(a) Skin test results are recorded in millimeters of induration; and

(b) A reaction of ten millimeters or more induration is read as a positive reaction. The exception to this ruling is that a reaction of five millimeters or more induration is read as a positive reaction for:

(i) Immunosuppressed persons;

(ii) Persons with recent contact with suspected or confirmed tuberculosis cases; and

(iii) Persons with abnormal chest radiographs consistent with tuberculosis.

(2) Residents. The nursing home shall:

(a) Conduct resident tuberculin skin tests within three days of admission. No skin testing is necessary on admission when there is documentation of:

(i) A positive reaction, as defined in subsection (1) of this section, to a previous Mantoux skin test;

(ii) Adequate therapy for active disease; or

(iii) Adequate preventive therapy.

(b) In the case of a resident thirty-five years of age or older with a negative reaction to the tuberculin skin test, conduct a second skin test within one to three weeks after

the first test, unless there is documentation of a skin test within the preceding six months;

(c) Ensure that staff evaluate each resident who has a positive reaction to the tuberculin skin test for signs and symptoms of tuberculosis (productive cough, coughing up blood, weight loss, loss of appetite, lethargy/weakness, night sweats, or fever);

(d) Ensure that a resident who shows positive symptoms of tuberculosis has a chest radiograph within five days of detection of the symptoms; and

(e) Retain in the resident's clinical record:

(i) Tuberculin skin test results, or waiver from skin testing as described in subsection (6) of this section; and

(ii) Other relevant findings.

(3) A resident who is admitted or re-admitted from a continuous stay in a hospital or other nursing home and who has evidence of tuberculosis skin testing shall be exempt from re-testing on re-admission.

(4) Personnel. The nursing home shall:

(a) Conduct personnel tuberculin skin tests within three days of employment. No skin testing is necessary upon employment when there is documentation of:

(i) A positive reaction, as defined in subsection (1) of this section, to a previous Mantoux skin test;

(ii) Adequate therapy for active disease; or

(iii) Adequate preventive therapy.

(b) In the case of personnel thirty-five years of age or older with a negative reaction to the tuberculin skin test, conduct a second test within one to three weeks after the first test, unless there is documentation of a skin test in the preceding six months;

(c) Ensure that personnel with a positive reaction after either test have a chest radiograph within five days;

(d) Ensure re-testing of personnel with negative reactions are conducted annually to identify a person whose tuberculin skin tests converts to positive;

(e) Retain in the employee's record for the duration of employment:

(i) Tuberculin skin test results, or waiver from skin testing as described in subsection (6) of this section; and

(ii) Other relevant findings.

(f) Provide the employee a copy of the records referred to in subsection (4)(e) of this section.

(5) The local health department may require additional tuberculin testing of residents or personnel as necessary for contact investigation.

(6) Waivers. A resident or an employee may request a waiver from the required tuberculin skin tests. The department of health will decide whether the waiver shall be granted and will notify the requesting person. Requests for waivers shall:

(a) Be directed to the tuberculosis control program, department of health; and

(b) Include supporting medical data, or other compelling reasons for the request.

NEW SECTION

WAC 388-97-220 Surveillance and management of tuberculosis. (1) The nursing home shall:

(a) Ensure compliance with nationally recognized tuberculosis standards, and applicable state law; and

(b) Evaluate any resident or employee with symptoms suggestive of tuberculosis regardless of whether tuberculin skin test results are positive or negative.

(2) In the case where tuberculosis is suspected or diagnosed, the nursing home shall:

(a) Notify the local public health officer so that appropriate contact investigation can be performed;

(b) Institute appropriate measures for control of the transmission of droplet nuclei; and

(c) Apply appropriate work restrictions where personnel are, or may be, infectious and pose a risk to residents and other personnel.

NEW SECTION

WAC 388-97-225 Care of residents with active tuberculosis. (1) Where the nursing home accepts the care of a resident with suspected or confirmed tuberculosis, the nursing home shall:

(a) Coordinate the resident's admission, nursing home care, discharge planning, and discharge with the local health officer or officer designee; and

(b) Provide necessary education about tuberculosis for staff, visitors, and residents.

(2) For a resident who requires respiratory isolation for tuberculosis, the nursing home shall:

(a) Provide a private or semiprivate isolation room:

(i) In accordance with WAC 388-97-330(2), Resident rooms;

(ii) In which room air is maintained under negative pressure; and appropriately exhausted, either directly to the outside away from intake vents or through properly designed, installed, and maintained high efficiency particulate air (HEPA) filters;

(b) Provide supplemental environment approaches, such as ultraviolet lights, where deemed to be necessary;

(c) Provide appropriate protective equipment for staff and visitors;

(d) Have measures in place for the decontamination of equipment and other items used by the resident; and

(e) Ensure that a resident who does not have confirmed or suspected tuberculosis does not share a semiprivate room with a resident requiring respiratory isolation.

ADMINISTRATION

NEW SECTION

WAC 388-97-230 General administration. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.75 will be deemed to meet subsections (2) through (6) of this section.

(2) THE NURSING HOME SHALL BE ADMINISTERED IN A MANNER THAT ENABLES IT TO USE ITS RESOURCES EFFECTIVELY AND EFFICIENTLY TO ATTAIN OR MAINTAIN THE HIGHEST PRACTICABLE PHYSICAL, MENTAL, AND PSYCHOSOCIAL WELL BEING OF EACH RESIDENT.

(3) THE NURSING HOME MUST:

(a) BE LICENSED UNDER CHAPTER 18.51 RCW;

(b) OPERATE AND PROVIDE SERVICES IN COMPLIANCE WITH:

(i) ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS, REGULATIONS, AND CODES;

(ii) ACCEPTED PROFESSIONAL STANDARDS AND PRINCIPLES THAT APPLY TO PROFESSIONALS PROVIDING SERVICES IN NURSING HOMES; AND

(c) HAVE A GOVERNING BODY OR DESIGNATED PERSONS FUNCTIONING AS A GOVERNING BODY, THAT IS LEGALLY RESPONSIBLE FOR ESTABLISHING AND IMPLEMENTING POLICIES REGARDING THE MANAGEMENT AND OPERATION OF THE NURSING HOME.

(4) THE GOVERNING BODY OF THE NURSING HOME SHALL APPOINT THE ADMINISTRATOR WHO IS:

(a) LICENSED BY THE STATE; AND

(b) RESPONSIBLE FOR MANAGEMENT OF THE FACILITY.

(5) THE NURSING HOME SHALL EMPLOY ON A FULL TIME, PART TIME OR CONSULTANT BASIS THOSE PROFESSIONALS NECESSARY TO CARRY OUT THE REQUIREMENTS OF THIS CHAPTER.

(6) IF THE NURSING HOME DOES NOT EMPLOY A QUALIFIED PROFESSIONAL PERSON TO FURNISH A SPECIFIC SERVICE TO BE PROVIDED BY THE NURSING HOME, THE NURSING HOME SHALL:

(a) HAVE THAT SERVICE FURNISHED TO RESIDENTS BY A PERSON OR AGENCY OUTSIDE THE NURSING HOME UNDER A WRITTEN ARRANGEMENT OR AGREEMENT; AND

(b) ENSURE THE ARRANGEMENT OR AGREEMENT REFERRED TO IN SUBSECTION (6)(a) OF THIS SECTION SPECIFIES IN WRITING THAT THE NURSING HOME ASSUMES RESPONSIBILITY FOR:

(i) OBTAINING SERVICES THAT MEET PROFESSIONAL STANDARDS AND PRINCIPLES THAT APPLY TO PROFESSIONALS PROVIDING SERVICES IN NURSING HOMES; AND

(ii) THE TIMELINESS OF SERVICES.

(7) The nursing home administrator shall comply with all requirements of chapter 18.52 RCW and all regulations promulgated thereunder.

(8) The nursing home shall report to the local law enforcement agency any person threatening bodily harm or causing a disturbance of such magnitude as to threaten any person's welfare and safety.

NEW SECTION

WAC 388-97-235 Staff and equipment. (1) The nursing home shall ensure:

(a) Sufficient numbers of appropriately qualified and trained staff are available to provide necessary care and services safely under routine conditions, as well as fire, emergency, and disaster situations;

(b) Adequate equipment, supplies and space are available to carry out all functions and responsibilities of the nursing home; and

(c) All staff, including management, provide care and services consistent with:

(i) Empowering each resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being, self-care and independence;

(ii) Respecting resident rights; and

(iii) Enhancing each resident's quality of life.

(2) The nursing home shall ensure that any employee giving direct resident care:

(a) Is eighteen years of age or older; or

(b) Has successfully completed a DSHS-approved nursing assistant training program; and

(c) Meets other requirements applicable to persons performing nursing related duties in a nursing home.

(3) The nursing home shall ensure:

(a) Students in an DSHS-approved nursing assistant training program:

(i) Complete training and competency evaluation within four months of beginning work as a nursing assistant;

(ii) Complete at least sixteen hours of training in communication and interpersonal skills, infection control, safety/emergency procedures including the Heimlich maneuver, promoting residents' independence, and respecting residents' rights before any direct contact with a resident; and

(iii) Wear name tags which clearly identify student or trainee status at all times in all interactions with residents and visitors in all nursing homes, including the nursing homes in which the student completes clinical training requirements and in which the student is employed;

(b) Residents and visitors have sufficient information to distinguish between the varying qualifications of nursing assistants; and

(c) Each employee hired as a nursing assistant applies for registration with the department of health within three days of employment in accordance with chapter 18.88A RCW.

NEW SECTION

WAC 388-97-240 Staff development. (1) The nursing home shall have a staff development program that is under the direction of a designated registered nurse or licensed practical nurse.

(2) The nursing home shall:

(a) Ensure each employee receives initial orientation to the facility and its policies and is initially assigned only to duties for which the employee has demonstrated competence;

(b) Ensure all employees receive appropriate inservice education to maintain a level of knowledge appropriate to, and demonstrated competence in, the performance of ongoing job duties consistent with the principle of assisting the resident to attain or maintain the highest practicable physical, mental, and psychosocial well-being. To this end, the nursing home shall:

(i) Assess the specific training needs of each employee and address those needs; and

(ii) Determine the special needs of the nursing home's resident population which may require training emphasis.

(c) Comply with other applicable training requirements, such as, but not limited to, the bloodborne pathogen standard.

NEW SECTION

WAC 388-97-245 Medical director. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.75(i) will be deemed to meet this section.

(2) EXCEPT FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICF/MR), THE NURSING HOME SHALL DESIGNATE A PHYSICIAN TO SERVE AS MEDICAL DIRECTOR.

(3) THE MEDICAL DIRECTOR IS RESPONSIBLE FOR:

(a) IMPLEMENTATION OF RESIDENT CARE POLICIES; AND

(b) THE COORDINATION OF MEDICAL CARE IN THE FACILITY.

NEW SECTION

WAC 388-97-250 Clinical records. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.75(l) will be deemed to meet subsection (2) of this section.

(2) THE NURSING HOME SHALL:

(a) MAINTAIN CLINICAL RECORDS ON EACH RESIDENT IN ACCORDANCE WITH ACCEPTED PROFESSIONAL STANDARDS AND PRACTICES THAT ARE:

- (i) COMPLETE;
- (ii) ACCURATELY DOCUMENTED;
- (iii) READILY ACCESSIBLE; AND
- (iv) SYSTEMATICALLY ORGANIZED.

(b) SAFEGUARD CLINICAL RECORD INFORMATION AGAINST ALTERATION, LOSS, DESTRUCTION, AND UNAUTHORIZED USE; AND

(c) KEEP CONFIDENTIAL ALL INFORMATION CONTAINED IN THE RESIDENT'S RECORDS, REGARDLESS OF THE FORM OR STORAGE METHOD OF THE RECORDS, EXCEPT WHEN RELEASE IS REQUIRED BY:

- (i) TRANSFER TO ANOTHER HEALTH CARE INSTITUTION;
- (ii) LAW;
- (iii) THIRD PARTY PAYMENT CONTRACT; OR
- (iv) THE RESIDENT.

(3) The nursing home shall ensure the clinical record of each resident includes at least the following:

(a) Resident identification and sociological data, including the name and address of the person or persons the resident designates as significant;

(b) Medical information required under WAC 388-97-185, Physician services,

(c) Physician's orders;

(d) Assessments;

(e) Plans of care;

(f) Services provided;

(g) In the case of the Medicaid-certified nursing facility, records related to preadmission screening and annual resident review;

(h) Progress notes;

(i) Medications administered;

(j) Consents, authorizations, releases;

(k) Allergic responses;

(l) Laboratory, x-ray, and other findings; and

(m) Other records as appropriate.

(4) The nursing home shall:

(a) Designate a person responsible for the record system who:

(i) Has appropriate training and experience in clinical record management; or

(ii) Receives consultation from a qualified clinical record practitioner, such as an registered record administrator or accredited record technician.

(b) Make all records available to authorized representatives of the department for review and duplication as necessary; and

(c) Maintain the following:

(i) A master resident index having a reference for each resident including the health record number, if applicable; full name; date of birth; admission dates; and discharge dates; and

(ii) A chronological census register, including all admissions, discharge, deaths and transfers, and noting the receiving facility. The nursing home shall ensure the register includes discharges for social leave and transfers to other treatment facilities in excess of twenty-four hours.

(5) The nursing home shall ensure the clinical record of each resident:

(a) Is documented and authenticated accurately, promptly and legibly by persons giving the order, making the observation, performing the examination, assessment, treatment or providing the care and services, and:

(i) Documents from other health care facilities that are clearly identified as being authenticated at that facility shall be considered authenticated at the receiving facility; and

(ii) The original or a durable, legible, direct copy of each document shall be accepted.

(b) Contains appropriate information for a deceased resident including:

(i) The time and date of death;

(ii) Apparent cause of death;

(iii) Notification of the physician and appropriate resident representative; and

(iv) The disposition of the body and personal effects.

(6) In cases where the nursing home maintains records by computer rather than hard copy, the nursing home shall:

(a) Have in place safeguards to prevent unauthorized access; and

(b) Provide for reconstruction of information.

(7) The nursing home shall:

(a) Retain health records for the time period required in RCW 18.51.300;

(b) In the event of a change of ownership, provide for the orderly transfer of health records to the new licensee; and

(c) In the event a nursing home ceases operation, make arrangements prior to cessation, as approved by the department, for preservation of the health records.

NEW SECTION

WAC 388-97-255 Disaster and emergency preparedness. (1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.75(m) will be deemed to meet subsection (2) of this section.

(2) THE NURSING HOME SHALL TRAIN ALL EMPLOYEES IN EMERGENCY PROCEDURES WHEN THEY BEGIN TO WORK IN THE NURSING HOME, PERIODICALLY REVIEW EMERGENCY PROCEDURES WITH EXISTING STAFF, AND CARRY OUT UNANNOUNCED STAFF DRILLS USING THOSE PROCEDURES.

(3) The nursing home shall have detailed written plans and procedures to meet potential emergencies and disasters. At a minimum the nursing home shall ensure these plans provide for:

(a) Fire;

(b) Severe weather;

(c) Loss of power;

(d) Earthquake;

(e) Explosion;

(f) Missing resident;

(g) Loss of water;

(h) Bomb threats; and

(i) Armed persons.

(4) The nursing home shall ensure emergency plans:

(a) Are developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;

(b) Are reviewed annually; and

(c) Include evacuation routes prominently posted on each unit.

NEW SECTION

WAC 388-97-260 Quality assessment and assurance.

(1) Medicaid-certified nursing facilities in compliance with federal requirements at 42 C.F.R. §483.75(o) will be deemed to meet subsection (2) of this section.

(2) THE NURSING HOME SHALL MAINTAIN A PROCESS FOR QUALITY ASSESSMENT AND ASSURANCE. THE DEPARTMENT MAY NOT REQUIRE DISCLOSURE OF THE RECORDS OF THE QUALITY ASSESSMENT AND ASSURANCE COMMITTEE EXCEPT IN SO FAR AS SUCH DISCLOSURE IS RELATED TO ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

(3) The nursing home shall ensure the nursing home's quality assessment and assurance process:

(a) Seeks out and incorporates input from the resident and family councils, if any, or individual residents and support groups; and

(b) Reviews expressed concerns and grievances.

NEW SECTION

WAC 388-97-265 Policies and procedures. (1) The nursing home shall develop and implement written policies and procedures in accordance with RCW 74.42.430, and other state and federal laws applicable to resident rights and nursing home operations.

(2) The nursing home shall ensure the written policies and procedures referred to in subsection (1) of this section:

(a) Promote and protect each resident's:

(i) Rights, including health care decision making;

(ii) Personal interests; and

(iii) Financial and property interests.

(b) Are made available to staff, residents, members of residents' families, the public, and representatives of the department;

(c) In the case of policies and procedures related to health care decision making and resident representation, are provided to the resident in accordance with federal requirements, where applicable; and

(d) Are current, and continued without interruption in the event of staff changes.

NEW SECTION

WAC 388-97-270 Criminal history disclosure and background inquiries. (1) Except as provided in this section, a nursing home shall not employ any person, directly or by contract, or accept as a volunteer or student any person who may have unsupervised access to residents if the person:

(a) Discloses or the background inquiry discloses that the person was:

(i) Convicted of a crime against persons as defined under RCW 43.43.830;

(ii) Convicted of crimes relating to financial exploitation as defined under RCW 43.43.830; or

(iii) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor.

(b) The person discloses or the appropriate licensing agency determines that the person:

(i) Was subject to an order of protection under chapter 74.34 RCW for abuse or financial exploitation of a vulnerable adult;

(ii) Was found in a final decision issued by a disciplinary board to have;

(iii) Sexually or physically abused or exploited any minor or developmentally disabled person;

(iv) Abused or financially exploited any vulnerable adult; or

(v) Was found in any dependency action under RCW 13.34.030 (2)(b) to have sexually assaulted or exploited any minor or to have physically abused any minor.

(2) A nursing home may choose to employ a person with a conviction of a crime against persons only if the conviction is one of the five crimes listed below and the required number of years has passed:

(a) Simple assault, assault in the fourth degree, or the same offense as it may hereafter be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) Prostitution, or the same offense as it may hereafter be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) Theft in the second degree, or the same offense as it may hereafter be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(d) Theft in the third degree, or the same offense as it may hereafter be renamed, and three or more years have passed between the most recent conviction and the date of application for employment; or

(e) Forgery, or the same offense as forgery may hereafter be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

(3) A nursing home may conditionally employ a person pending a background inquiry provided the nursing home requests the inquiry within seventy-two hours of the conditional employment.

(4) A nursing home licensed under chapter 18.51 RCW shall make a background inquiry request to one of the following:

(a) The Washington state patrol;

(b) The department;

(c) The most recent employer licensed under chapter 18.51 RCW, provided termination of that employment was within twelve months of the current employment application and provided the inquiry was completed by the department or completed by the Washington state patrol within the three years before the current date of application; or

(d) A nurse pool agency licensed under chapter 18.52C RCW, or hereafter renamed, provided the background inquiry was completed by the Washington state patrol within three years before the current date of employment in the nursing home.

(5) Before a nursing home employs, directly or by contract, or accepts any person as a volunteer or student, a nursing home shall:

(a) Inform the person the Washington state patrol shall complete a background inquiry; or

(b) Inform the person that the person may make a request for a copy of a completed background inquiry as provided for under subsection (4) of this section; and

(c) Require the person to sign a disclosure statement;

(d) Require the person to sign a statement authorizing the nursing home, the department, and the Washington state patrol to make a background inquiry request; and

(e) Verbally inform the person of the background inquiry results within seventy-two hours of receipt.

(6) Nursing homes:

(a) Shall require all current direct or contract employees, volunteers, and students to sign disclosure statements;

(b) Shall request a background inquiry of any person employed, directly or by contract, or accepted as a volunteer or student on or after July 23, 1989;

(c) May request a background inquiry of any person employed, directly or by contract, or accepted as a volunteer or student before July 23, 1989; and

(d) Shall notify appropriate licensing or certification agency of any person resigning or terminated as a result of having a conviction record.

(7) The nursing home shall establish procedures ensuring:

(a) All disclosure statements and background inquiry responses and all copies are maintained in a confidential and secure manner;

(b) Disclosure statements and background inquiry responses are used for employment purposes only;

(c) Disclosure statements and background inquiry responses are not disclosed to any person except:

(i) The person about whom the nursing home made the disclosure or background inquiry;

(ii) Authorized state and federal employees;

(iii) The Washington state patrol auditor; and

(iv) Potential employers licensed under chapter 18.51 RCW who are making a request as provided for under subsection (4) of this section.

(d) A record of findings shall be retained by the facility for twelve months beyond the date of employment termination.

MISCELLANEOUS SERVICES

NEW SECTION

WAC 388-97-275 Laundry services. (1) The nursing home shall ensure sufficient washing and drying facilities to meet the residents' care and comfort needs without delay. To that end the nursing home shall:

(a) Launder facility linens on the premises; or

(b) Contract with a laundry capable of meeting quality standards, infection control, and turn-around time requirements; and

(c) Make provision for laundering of residents' personal clothing.

(2) The nursing home shall ensure the temperature and time of the hot water cycle to disinfect nursing home linen is:

(a) One hundred sixty degrees Fahrenheit during a five minute minimum wash cycle or one hundred forty degrees Fahrenheit during a fifteen minute minimum wash cycle; or

(b) Equivalent disinfection method which conforms to generally accepted standards of infection control for health care facility linen.

(3) For residents' personal clothing, the nursing home shall:

(a) Have a system in place to ensure that personal clothing is not damaged or lost during handling and laundering; and

(b) May use chemical disinfection in lieu of the hot water disinfection.

NEW SECTION

WAC 388-97-280 Respite services. (1) "Respite services" means relief care for families or other caregivers of persons with disabilities.

(2) Respite services shall:

(a) Provide temporary care and supervision in substitution for the caregiver;

(b) Be for short-term stays up to a maximum of thirty-one days; and

(c) Not be used to hold a resident waiting regular admission to the nursing home.

(3) The nursing home providing respite services shall develop and implement policies and procedures consistent with this section.

(4) In providing respite services, the nursing home shall:

(a) Have appropriate and adequate staff, space, and equipment to meet the person's needs without jeopardy to the care of regular residents;

(b) Ensure respite residents have assessments performed, where needed, by qualified staff to meet the resident's needs;

(c) Before or at the time of admission of a person for respite services, obtain sufficient information to meet the person's anticipated needs. At a minimum, such information includes:

(i) Name, address, and telephone number of the person's physician and alternate physician, if any;

(ii) Medical and social history, mental and physical assessment data; and

(iii) Physician's orders for diet, medication and routine care consistent with the person's status on admission.

(d) With the participation of the respite resident and, where appropriate, the person's representative, develop a plan of care to maintain or improve the respite resident's health and functional status during the respite stay;

(e) Provide for the respite resident to:

(i) Bring medications from home in accordance with nursing home policy; and

(ii) Self-medicate where determined safe.

(f) Promptly report injury, illness, or other adverse change in the respite resident's health condition to the attending physician;

(g) Where assessment of the respite resident reveals symptoms of tuberculosis, follow tuberculosis testing requirements under WAC 388-97-210, Early identification of persons with active tuberculosis; and

(h) At the request of the respite resident, or where appropriate, the person's representative, make provision for securing the respite resident's cash and other valuables brought to the nursing home during the respite stay.

PROPOSED

(5) A nursing home may use a respite care assessment and service plan performed by a case manager designated by an area agency on aging under contract with the department to obtain the medical and social history information required by this subsection.

(6) Records.

(a) In lieu of opening a new record, the nursing home may reopen a respite resident's health record with each period of a respite resident's care up to one year from the previous respite stay, provided the nursing home reviews and updates the recorded information with each new period of care; and

(b) Medicaid-certified nursing facilities shall complete the state-specified resident assessment instrument for any person whose respite stay exceeds fourteen days.

NEW SECTION

WAC 388-97-285 Adult day or night care. (1) "Adult day or night care" means temporary care not to exceed sixteen continuous hours per day. Such care may be on a regular or intermittent basis.

(2) The nursing home providing adult day or night care shall develop and implement policies and procedures consistent with this section.

(3) In providing adult day or night care, the nursing home shall:

(a) Have appropriate and adequate staff, space, and equipment to provide care without jeopardy to the care of regular residents;

(b) Ensure assessments are performed, where needed, by qualified staff;

(c) Before or at the time services are started, obtain sufficient information to meet anticipated needs. Such information shall include:

(i) Name, address, and telephone number of the person's physician and alternate physician, if any;

(ii) Medical and social history, mental and physical assessment data; and

(iii) Physician's orders for dietary, medication, and routine care consistent with current status.

(d) Provide for the person to:

(i) Bring medications from home in accordance with nursing home policy; and

(ii) Self-medicate where determined safe.

(e) With the participation of the adult day or night care person and, where appropriate, the person's representative, develop a plan of care to maintain or improve the health and functional status during the period of care;

(f) Promptly report injury, illness, or other adverse change in health condition to the physician;

(g) Where assessment reveals symptoms of tuberculosis, follow tuberculosis testing requirements under WAC 388-97-210, Early identification of persons with active tuberculosis; and

(h) At the request of the person or, where appropriate, the person's representative, make provision for securing the cash and other valuables brought to the nursing home during day or night care.

(4) Records. In lieu of opening a new record, the nursing home may reopen an adult day or night care person's health records with each period of adult day or

night care up to one year from the previous day or night care stay, provided the nursing home reviews and updates the recorded information with each new period of care.

NEW SECTION

WAC 388-97-290 Dialysis services. (1) "Dialysis" means the process of separating crystalloids and colloids in solution by means of the crystalloids and colloids unequal diffusion through a natural or artificial, semipermeable membrane.

(2) "Dialysis helper" means a person who has:

(a) Completed an inservice class approved by the kidney center; and

(b) Been hired by the resident to provide to the resident care related only to dialysis treatment.

(3) "Kidney center" means those facilities as defined and certified by the federal government to provide end stage renal disease (ESRD) services and which provide services specified in WAC 246-520-020.

(4) Dialysis for acute renal failure shall not be administered in a nursing home.

(5) A nursing home may only administer maintenance dialysis in the nursing home after the:

(a) Analysis of other options and elimination of these options based on the resident's best interest; and

(b) Decision is made jointly by a team of persons representing the kidney center, the resident, the resident's nephrologist, and the nursing home.

(6) The nursing home shall ensure:

(a) A current written agreement is in effect with each kidney center responsible for the management and care of each patient undergoing dialysis in the nursing home; and

(b) Such agreement delineates the functions, responsibilities, and services of both the kidney center and the nursing home.

(6) The nursing home shall ensure appropriate care, treatment, and services to each resident receiving dialysis in the nursing home.

(7) The kidney center shall assist the nursing home in ensuring appropriate care, treatment, and services related to dialysis in the nursing home. Responsibilities of the kidney center shall include, but not be limited to:

(a) Provision of clinical and chemical laboratory services;

(b) Services of a qualified dietitian;

(c) Social services;

(d) Preventative maintenance and emergency servicing of dialysis and water purification equipment;

(e) Certification and continuing education of dialysis helpers and periodic review and updating of dialysis helpers' competencies;

(f) An in-hospital dialysis program for the care and treatment of a dialysis resident with a complication or acute condition necessitating hospital care;

(g) A continuing in-service education program for nursing home staff working with a dialysis resident;

(h) A program for periodic, on-site review of the nursing home's dialysis rooms;

(i) Selection, procurement, and installation of dialysis equipment;

(j) Selection and procurement of dialysis supplies;

(k) Proper storage of dialysis supplies; and

(l) Specification, procurement, and installation of the purification process for treatment of water used as a diluent in the dialyzing fluid.

(8) Only a registered nurse from the kidney center or a dialysis helper may administer dialysis in the nursing home.

(a) A dialysis helper may be a registered nurse;

(b) When a dialysis helper is not a registered nurse, the nursing home shall have a registered nurse who has completed an in-service class approved by the kidney center, on the premises during dialysis.

(9) A physician, designated or approved by the kidney center, shall be on call at all times dialysis is being administered in the nursing home.

(10) The resident's attending physician and the kidney center shall provide, or direct and supervise, the continuing medical management and surveillance of the care of each dialysis resident in a nursing home.

(11) The nursing home shall:

(a) Ensure the kidney center develops a dialysis treatment plan; and

(b) Incorporate this treatment plan into the resident's comprehensive plan of care and include specific medical orders for medications, treatment, and diet.

(12) The dialysis room in the nursing home shall be in compliance with standards established under 42 C.F.R. §405.2140, for ESRD facilities. This includes:

(a) Storage space available for equipment and supplies;

(b) A telephone at the bedside of each dialysis resident; and

(c) A mechanical means of summoning additional staff to the dialysis area in the event of a dialysis emergency.

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

SUBCHAPTER II PHYSICAL ENVIRONMENT ALL FACILITIES

NEW SECTION

WAC 388-97-295 General. THE NURSING HOME SHALL BE DESIGNED, EQUIPPED, AND MAINTAINED TO:

(1) PROTECT THE HEALTH AND SAFETY OF RESIDENTS, PERSONNEL, AND THE PUBLIC; AND

(2) PROVIDE A SAFE, CLEAN, COMFORTABLE AND HOME-LIKE ENVIRONMENT ALLOWING THE RESIDENT TO USE HIS OR HER PERSONAL BELONGINGS TO THE EXTENT POSSIBLE.

NEW SECTION

WAC 388-97-300 Fire standards and approval. All nursing homes shall conform to minimum standards for the prevention of fire, and for the protection of life and property against fire, as set forth in chapter 212-12 WAC.

NEW SECTION

WAC 388-97-305 Other standards. The nursing home shall comply with all other applicable requirements of state and federal law.

NEW SECTION

WAC 388-97-310 IMR exceptions to physical plant requirements. The following regulations do not apply to nursing homes certified exclusively under 42 C.F.R. §483, subpart I, Conditions of participation for intermediate care facilities for the mentally retarded as now or hereafter amended.

(1) WAC 388-97-330 (1)(c) Resident rooms. Number of square feet per bed.

(2) WAC 388-97-335 (9) Resident room equipment. Cubicle curtains.

NEW SECTION

WAC 388-97-315 Emergency power. (1) The nursing home shall have an alternate source of power and automatic transfer equipment to connect the alternate source within ten seconds of the failure of the normal source.

(a) The nursing home shall ensure the alternate source is a generator driven by a prime mover with on-site fuel supply, unit equipment permanently fixed in place, and approved for emergency service.

(b) When life support systems are used, the nursing home shall provide emergency electrical power with an emergency generator, as defined in NFPA 99, Health care facilities, that is located on the premises.

(2) The nursing home shall ensure the emergency power supply provides a minimum of four hours of effective power for lighting for night lights, exit signs, exit corridors, stairways, dining and recreation areas, work stations, medication preparation areas, boiler rooms, electrical service room and emergency generator locations.

(3) A nursing home first licensed on or after October 1, 1981, shall have:

(a) Uninterrupted function of communication systems, all alarm systems, an elevator that reaches every resident floor including the ground floor, equipment to provide heating for resident rooms or a room to which all residents can be moved when the outside design temperature is plus twenty degrees Fahrenheit or lower based on the median extremes as shown in the ASHRAE HANDBOOK OF FUNDAMENTALS; and

(b) Uninterrupted function of selected specially marked receptacles in medication preparation areas, pharmacy dispensing areas, staff work stations, and resident corridors.

NEW SECTION

WAC 388-97-320 Space and equipment. (1) Medicaid-certified nursing facilities in compliance with federal requirements at C.F.R. §483.70(c) will be deemed to meet this section.

(2) THE NURSING HOME SHALL:

(a) PROVIDE SUFFICIENT SPACE AND EQUIPMENT IN DINING, HEALTH SERVICES, RECREATION AND PROGRAM AREAS TO ENABLE STAFF TO PROVIDE RESIDENTS WITH NEEDED SERVICES AS IDENTIFIED IN EACH RESIDENT'S CARE PLAN; AND

(b) MAINTAIN ALL ESSENTIAL MECHANICAL, ELECTRICAL AND PATIENT CARE EQUIPMENT IN SAFE AND OPERATING CONDITION.

NEW SECTION

WAC 388-97-325 Resident care unit. (1) LOCATION. The nursing home shall locate:

(a) Each resident care unit to minimize through traffic to any general service, diagnostic, treatment, or administrative area; and

(b) All rooms or areas within the unit on the same floor level.

(2) REQUIRED SERVICES.

(a) The nursing home shall ensure each resident care unit has at least the following basic services:

(i) A staff work station;

(ii) A medicine storage and preparation area;

(iii) Utility rooms which maintain separated clean and soiled functions;

(iv) Storage space for linen, other supplies, and equipment;

(v) Housekeeping services; and

(vi) Janitor's closet.

(b) Resident care units may share basic services if the units are in close proximity to each other and the combined units serve a total of not more than sixty residents; except the nursing home shall have a separate staff work station on a secured dementia care unit.

(3) STAFF WORK STATION. On each unit, the nursing home shall have a staff work station appropriate to the needs of staff using the space. At a minimum, the nursing home shall equip the area with:

(a) A charting surface;

(b) A rack or other storage for current health records;

(c) Storage for record and clerical supplies;

(d) A telephone;

(e) A resident call system; and

(f) A clock.

(4) CALL SYSTEMS. The nursing home shall provide the following or an equivalent system which meets these standards:

(a) An electrical communication system which registers a call by distinctive light at the room door and by distinctive light and audible tone at the staff work station. The system shall be equipped to receive resident calls from:

(i) The bedside of each resident;

(ii) Each day room or other area used by residents;

(iii) Resident toilet, bath and shower rooms.

(b) An emergency signal device activated by a nonconductive pull cord, or adapted to meet the needs of the resident. The nursing home shall locate the signal device for easy reach by the resident.

(5) TELEPHONES. A nursing home resident shall have twenty-four hour access to a telephone which:

(a) Provides auditory privacy; and

(b) Is accessible to a person with a disability and accommodates a person with sensory impairment.

(6) UTILITY SERVICE ROOMS. The nursing home shall provide a utility room designed, equipped, and maintained to ensure separation of clean and sterile supplies and equipment from those which are contaminated. The nursing home shall ensure:

(a) Each clean utility area has a work counter, a sink, and closed storage units for supplies and small equipment.

(b) Each soiled utility area has:

(i) A work counter and a sink large enough to totally submerge the items being cleaned and disinfected;

(ii) Storage for cleaning supplies and other items;

(iii) Locked storage for cleaning agents, disinfectants and other caustic or toxic agents;

(iv) Adequate space for waste containers, linen hampers, and other large equipment; and

(v) Adequate ventilation to remove odors and moisture.

(7) DRUG FACILITIES. The nursing home shall ensure an area is designed and equipped for drug preparation and locked storage near each work station. The nursing home shall ensure:

(a) The drug facilities are well illuminated, ventilated, and equipped with a work counter, sink with hot and cold running water, and drug storage units.

(b) The drug storage units provide:

(i) Locked storage for all drugs;

(ii) Separately keyed storage for Schedule II and III controlled substances; and

(iii) Segregated storage of different resident's drugs.

(c) There is a refrigerator for storage of thermolabile drugs in the drug facility; and

(d) Locks and keys for drug facilities are different from other locks and keys within the nursing home.

(8) LINEN STORAGE. The nursing home shall provide:

(a) A clean area for storage of clean linen and other bedding. This may be an area within the clean utility room.

(b) A soiled linen space for collection and temporary storage of soiled linen. This may be in an area of the soiled utility room.

(9) EQUIPMENT STORAGE. The nursing home shall provide adequate storage space for wheelchairs and other ambulation equipment. The nursing home shall ensure equipment does not impinge upon the required corridor space.

(10) JANITORS' CLOSET. The nursing home shall have a janitors' closet with a service sink and adequate storage space for housekeeping equipment and supplies near each resident care unit.

NEW SECTION

WAC 388-97-330 Resident rooms. (1) Medicaid-certified nursing facilities in compliance with federal requirements of C.F.R. §483.70(d) will be deemed to meet subsections (2)(a)(b)(d)(e), and (4), except (2)(c) and (3).

(2) EACH RESIDENT ROOM SHALL MEET THE FOLLOWING REQUIREMENTS:

(a) EACH RESIDENT ROOM SHALL HAVE DIRECT ACCESS TO AN EXIT CORRIDOR AND SHALL BE LOCATED TO PREVENT THROUGH TRAFFIC;

(b) THE MAXIMUM CAPACITY OF ANY RESIDENT BEDROOM SHALL BE FOUR BEDS;

(c) There shall be no more than two beds between any resident bed and exterior window wall;

(d) MINIMUM ROOM AREAS FOR EXISTING FACILITIES EXCLUSIVE OF TOILET ROOMS, CLOSETS, LOCKERS OR WARDROBES SHALL BE AT LEAST EIGHTY SQUARE FEET PER BED IN EACH MULTI-BED ROOM AND AT LEAST ONE HUNDRED SQUARE FEET FOR EACH SINGLE BED ROOM;

(e) EACH RESIDENT ROOM SHALL BE DESIGNED OR EQUIPPED TO ENSURE FULL VISUAL PRIVACY FOR EACH RESIDENT.

(3) If a nursing home provides an isolation room, the nursing home shall ensure the room is uncarpeted and contains:

(a) A lavatory with water supplied through a mixing valve; and

(b) It's own adjoining toilet room containing a bathing facility.

(4) EXCEPTIONS. THE DIRECTOR OF NURSING HOME SERVICES, AGING AND ADULT SERVICES ADMINISTRATION, MAY PERMIT EXCEPTIONS TO (2)(c) AND (d) FOR NURSING HOMES WHEN THE NURSING HOME DEMONSTRATES IN WRITING THAT THE EXCEPTION:

(a) IS IN ACCORDANCE WITH THE SPECIAL NEEDS OF THE RESIDENT; AND

(b) WILL NOT ADVERSELY AFFECT ANY RESIDENTS' HEALTH OR SAFETY.

NEW SECTION

WAC 388-97-335 Resident room equipment. The nursing home shall determine a resident's furniture and equipment needs at the time of admission and routinely thereafter to ensure resident comfort. The nursing home provide each resident with the following, except as specified in WAC 388-97-130(15), Personal property:

(1) A comfortable bed of size and height to maximize a resident's independent functioning. Beds may be arranged to satisfy the needs and desires of the individual resident provided the arrangement does not negatively impact the health or safety of other residents;

(2) Appropriate bedding;

(3) A bedside cabinet that allows for storage of small personal articles and a separate drawer or enclosed compartment for storage of resident care utensils/equipment;

(4) A lockable storage space accessible to each resident for storage of small personal items, upon request;

(5) A separated, enclosed wardrobe or closet for resident's clothing and belongings accessible to the resident;

(6) Comfortable seating to provide for proper body alignment and support;

(7) A wall-mounted or equivalent reading light, to accommodate the needs of the resident;

(8) A resident call signal device for each bed adapted to accommodate the needs of the resident, except as required in the dementia care unit; and

(9) Flame-retardant cubicle curtains in multi-bed rooms which provide full visual privacy for each resident.

NEW SECTION

WAC 388-97-340 Resident toilet and bathing facilities. (1) Each resident room shall be equipped with or located near toilet and bathing facilities.

(2) The nursing home shall ensure:

(a) A toilet room is directly accessible from each resident room and from each bathing facility without going through a general corridor;

(b) One toilet room serves two bedrooms or less.

(3) The nursing home shall ensure:

(a) All lockable toilets and bathrooms have readily available a means of unlocking from the outside; and

(b) Locks are operable from the inside with a single effort.

(4) The nursing home shall ensure there is at least one bathing unit for every twenty residents or fraction thereof which is not in a room served by an adjoining bathroom.

(5) The nursing home shall ensure for each resident care unit there is at least one bathing device designed for bathing by immersion.

(6) The nursing home shall ensure there is at least one roll-in shower or equivalent on each resident care unit:

(a) Designed and equipped for unobstructed ease of shower chair entry and use; and

(b) With a spray attachment equipped with a backflow prevention device.

(7) The nursing home shall ensure resident bathing equipment is smooth, cleanable, and able to be disinfected after each use.

NEW SECTION

WAC 388-97-345 Dining and resident activities. (1) Medicaid-certified nursing facilities in compliance with federal requirements at C.F.R. §483.70(g) will be deemed to meet this section.

(2) THE NURSING HOME SHALL PROVIDE ONE OR MORE ROOMS DESIGNATED FOR RESIDENT DINING AND ACTIVITIES. THESE ROOMS SHALL:

(a) BE WELL LIGHTED;

(b) BE WELL VENTILATED;

(c) BE ADEQUATELY FURNISHED; AND

(d) HAVE SUFFICIENT SPACE TO ACCOMMODATE ALL ACTIVITIES.

NEW SECTION

WAC 388-97-350 Optional rooms and areas. (1) SPECIALIZED REHABILITATION. Nursing homes initially licensed after October 1, 1981, shall ensure inpatient services:

(a) Are located for easy access in general service areas;

(b) Include exercise, treatment, and supportive equipment as required by the narrative program in the construction documents;

(c) Have adequate space for exercise equipment and treatment tables with sufficient work space on each side;

(d) Provide privacy cubicle curtains on tracks or the equivalent around treatment areas;

(e) Provide a lavatory in the treatment area and a toilet nearby;

(f) Provide space and a desk or equivalent for administrative, clerical, interviewing, and consultative functions;

(g) Provide adequate enclosed storage cabinets for clean linen and supplies and locked storage for cleaning chemicals in the rehabilitation room or nearby janitor's closet;

(h) Provide adequate storage space for large equipment;

(i) Provide a janitor's closet close to the area;

(j) Provide for soiled linen storage; and

(k) Provide a separate room or area for hydrotherapy tanks, or the equivalent, if tanks are used.

(2) OUTPATIENT REHABILITATION. The nursing home shall ensure facilities with outpatient programs provide:

(a) A designated reception and waiting room or area and space for interviewing or counseling individual outpatients and their families;

- (b) Adequate space for the program to minimize disruption to designated resident care units;
- (c) Accessible toilet and shower facilities nearby;
- (d) Lockers or a safe place to store outpatient personal belongings; and
- (e) A separate room or area for hydrotherapy tanks, or the equivalent.

(3) **DEMENTIA CARE UNIT.** A nursing home that began operating a dementia care unit at any time after December 1, 1989, must meet all requirements of this section. A new building or addition to an existing nursing home shall also meet the requirements of WAC 388-97-460(3). The dementia care unit shall:

- (a) Provide dining areas which may also serve as day areas for the unit;
- (b) Provide secured outdoor space and walkways including:
 - (i) Ambulation area. Walking surfaces shall be firm, stable, and free from abrupt changes. Walking surfaces subject to wet conditions shall have slip-resistant surfaces;
 - (ii) Outdoor furniture; and
 - (iii) Nontoxic plants.
- (c) Staff toilet room with lavatory;
- (d) Provide indoor ambulation areas meeting the needs of the residents, and maintained free of equipment;
- (e) Ensure floors, walls, and ceiling surfaces display contrasting color for identification. Surfaces may have a disguise design to obscure or conceal areas that residents should not enter. Exterior exit doors shall be marked so that they are readily distinguishable from adjacent construction and the way of exit travel is obvious and direct;
- (f) Ensure door thresholds are one-half inch high or less;
- (g) Provide an electrical signaling system at each bedside, designed primarily for staff and visitor use in emergent situations, which registers by a distinctive light at the resident room door and light and tone at the staff work station. The facility shall accommodate the needs of residents able to utilize a call system;
- (h) Not use a public address system except for emergencies;
- (i) Ensure required approvals are obtained from the state fire marshal, department of social and health services and the local official enforcing the uniform building code and uniform fire code when automatic door locks are used.
- (j) Always have staff present in the unit to protect all residents in the event of fire and for residents' evacuation to areas of refuge and from the building when necessary.

NEW SECTION

WAC 388-97-355 Food service areas. The nursing home shall ensure food service areas are in compliance with chapter 246-215 WAC, state board of health rules governing food service sanitation. The nursing home shall:

- (1) Ensure food service areas are provided for the purpose of preparing, serving, and storing food and drink unless food service is provided from another licensed food service facility;
- (2) Ensure food service areas are located to facilitate receiving of food stores, disposal of kitchen waste, and transportation of food to dining and resident care areas;

(3) Locate and arrange the kitchen to avoid contamination of food, to prevent heat and noise entering resident care areas, and to prevent through traffic;

(4) Locate the receiving area for ready access to storage and refrigeration areas;

(5) Conveniently locate handwashing facilities to the food preparation and dishwashing area, and include a lavatory, a waste receptacle, and dispensers stocked with soap and paper towels;

(6) Adequately ventilate, light, and equip the dishwashing room or area for sanitary processing of dishes;

(7) Locate the garbage storage area in a well-ventilated room or an outside area;

(8) When a can-wash area is provided, have hot and cold water and a floor drain connected to the sanitary sewage system;

(9) Provide space for an office or a desk and files for food service management located central to deliveries and kitchen operations; and

(10) Include housekeeping facilities or a janitor's closet for the exclusive use of food service with a service sink and storage of housekeeping equipment and supplies.

NEW SECTION

WAC 388-97-360 Lighting. The nursing home shall ensure:

(1) Lighting is adequate and comfortable for the functions being conducted in each area of the nursing home;

(2) Lighting levels are appropriate to the task, support the independent functioning of the resident, provide a homelike environment, and minimize glare;

(3) Adequate natural or artificial light for inside illumination is provided in every useable room area, including storerooms, attic and basement rooms, hallways, stairways, inclines, and ramps;

(4) Lighting levels in parking lots and approaches to buildings are appropriate for resident and visitor convenience and safety;

(5) All outside areas where nursing home equipment and machinery are stored have proper lighting; and

(6) Light shields are provided in kitchens and related food serving areas, utility rooms, medication rooms, exam rooms, pool enclosures, and resident rooms when ceiling-mounted florescent lights are used.

NEW SECTION

WAC 388-97-365 Safety. The nursing home shall provide the following:

(1) A safe, functional, sanitary, and comfortable environment for the residents, staff, and the public;

(2) Signs to designate areas of hazard;

(3) Reference material regarding medication administration, adverse reactions, toxicology, and poison control center information readily available to nursing home staff at all times;

(4) Poisons and other nonmedicinal chemical agents in containers identified with a warning label stored:

(a) In a separate locked storage when not in use by staff; and

(b) Separate from drugs used for medicinal purposes.

- (5) Equipment and supplies stored in a manner to not jeopardize the safety of residents, staff, or the public;
- (6) Handrails on each side of all corridors and stairwells accessible to residents;
- (7) Electrical outlets available for the number of electrical appliances in use.

NEW SECTION

WAC 388-97-370 Water supply. (1) The nursing home shall comply with the requirements of the Public Water Supply, chapter 246-290 WAC.

(2) The nursing home shall establish procedures to ensure that water is available to essential areas when there is a loss in normal water supply.

(3) The nursing home shall ensure the hot water system maintains water temperatures at one hundred ten degrees Fahrenheit, plus or minus ten degrees Fahrenheit, at fixtures used by residents and staff.

(4) The nursing home shall prohibit all cross connections between potable and nonpotable water.

NEW SECTION

WAC 388-97-375 Pest control. (1) Medicaid-certified nursing facilities in compliance with federal requirements at C.F.R. §483.70(h(4)) will be deemed to meet this section.

(2) THE NURSING HOME SHALL MAINTAIN AN EFFECTIVE PEST CONTROL PROGRAM SO THAT THE FACILITY IS FREE OF PESTS SUCH AS RODENTS AND INSECTS.

NEW SECTION

WAC 388-97-380 Maintenance and repair. (1) The nursing home shall maintain electrical, mechanical, and patient care equipment in safe operating condition.

(2) The nursing home shall ensure floors, walls, ceilings, and equipment surfaces are maintained in clean condition and in good repair.

NEW SECTION

WAC 388-97-385 Sewage and liquid waste disposal. The nursing home shall ensure:

(1) All sewage and liquid wastes are discharged into an approved public sewage system where such system is available; or

(2) Sewage and liquid wastes are collected, treated, and disposed of in an on-site sewage system in accordance with chapter 246-272 WAC and meets with the approval of the local health department and/or the state Department of Health.

NEW CONSTRUCTION**NEW SECTION**

WAC 388-97-390 General. The nursing home shall ensure:

(1) New construction complies with the requirements of subchapter II as well as with all other requirements of this chapter. New construction approved by department of health before the effective date of the rules of this chapter shall comply with the rules in effect at the time of the plan approval.

- (2) New construction includes:
- (a) A new building used as a nursing home;
- (b) An addition to a building used as a nursing home;
- (c) Conversion of an existing building used as a nursing home; and
- (d) Alterations including physical, mechanical, or electrical changes made to an existing nursing home, except for painting and repairs.

(3) The project sponsor shall submit plans for all the foregoing to the department of health and plans must be approved before the work begins. The nursing home may request exemptions for alterations as described in WAC 388-97-405.

(4) If the proposed project is not extensive enough to require professional architectural or engineering services, the project sponsor shall submit a written description to the department of health for a determination of the applicability of WAC 388-97-400 (2)(a), Approval of plans.

NEW SECTION

WAC 388-97-395 Design requirements. (1) HOME-LIKE. The nursing home shall be designed to provide a safe, clean, comfortable, and homelike environment, that allows the resident to use his or her personal belongings to the greatest extent possible.

(2) NOISE. The nursing home shall:

(a) Be constructed with materials that provide comfortable sound levels in all resident areas.

(b) Utilize an alternative to the public address system for nonemergency communication which best serves the residents' needs.

NEW SECTION

WAC 388-97-400 Approval of plans. (1) PRELIMINARY PLANS.

(a) Narrative program. The sponsor for each construction project shall provide a narrative as part of the preliminary plans to the department of health with a copy to aging and adult services administration which describes:

(i) How the design promotes a homelike environment and facilitates resident-centered care and services;

(ii) Functional space requirements;

(iii) Staffing patterns;

(iv) Traffic patterns;

(v) Each function to be performed;

(vi) Types of equipment required; and

(vii) Identification of services which will not be provided directly, but will instead be provided through contract.

(b) The plans and specifications for new construction shall be prepared by or under the direction of a Washington licensed architect or engineer, and be submitted in duplicate to the Department of Health. The plans shall be reviewed and approved as preliminaries by the department of health in coordination with aging and adult services administration prior to preparation of final plans. Refer to WAC 388-97-390(4), General, if the proposed project is not extensive enough to require professional architectural or engineering services.

(c) Preliminary plans shall be drawn to scale and shall include:

(i) Plot plan showing streets, entrance ways, driveways, parking, design statements for adequate water supply, sewage and disposal systems, space for the storage of recycled materials, and the arrangement of buildings on the site noting handicapped accessible parking and entrances;

(ii) Floor plans showing existing and proposed arrangements within the building, including the fixed and major movable equipment; and

(iii) Each room, space, and corridor identified by function and number.

(d) Preliminary specifications shall include a general description of construction and materials, including interior finishes.

(2) **FINAL CONSTRUCTION DOCUMENTS.**

(a) Construction shall not commence until three sets of final plans drawn to scale with complete specifications have been submitted to and approved by the department of health in coordination with aging and adult services administration.

(b) Final construction documents shall be prepared, stamped, signed and dated by a licensed architect or engineer.

(c) These plans and specifications shall show complete details to be furnished to contractors for construction of the buildings, including:

(i) Plot plan;

(ii) Plans of each floor of the building, including fixed equipment;

(iii) Elevations, sections, and construction details;

(iv) Schedule of floor, wall, and ceiling finishes, door and window sizes and types;

(v) Mechanical and electrical systems; and

(vi) Provision for noise, dust and draft control, fire protection, safety and comfort of the residents if construction work takes place in or near occupied areas.

(d) For buildings over four thousand square feet, a copy of the lead agency declaration of nonsignificance of environmental impact shall be submitted to the department of health as specified in chapter 248-06 WAC.

(3) **PREINSTALLATION SUBMISSIONS** shall be submitted to the department of health and approved prior to installation. Submissions shall include:

(a) Stamped shop drawings for fire sprinkler system;

(b) Shop drawings for fire detection and alarm systems; and

(c) If carpets are to be installed:

(i) A floor plan or finish schedule denoting areas to be carpeted;

(ii) Function of areas to be carpeted;

(iii) Coding with a key for carpet types;

(iv) A copy of a testing laboratory report of the floor radiant panel and smoke density tests; and

(v) A copy of the manufacturer's carpet specifications.

(4) **CONSTRUCTION TIMELINES.** All construction shall take place in accordance with the approved final plans and specifications. Changes to plans must be reviewed and approved by the department of health in coordination with aging and adult services administration prior to incorporation into the construction project.

(a) If construction has not begun within one year from the date of approval, the plans must be resubmitted for review in accordance with current requirements.

(b) If construction is not completed within two years from the date of approval, the plans shall be resubmitted for approval of the remaining construction consistent with current requirements.

(c) To obtain an extension beyond two years, a written request shall be submitted and approved thirty days prior to the end of the two-year period.

NEW SECTION

WAC 388-97-405 Exemptions. (1) The director of nursing home services, aging and adult services administration, may grant exemptions to new construction requirements:

(a) For alterations when the applicant demonstrates the proposed alterations will serve to correct deficiencies or will upgrade the nursing home in order to better serve residents; and

(b) For substitution of procedures, materials, or equipment for requirements specified in this chapter when such procedures, materials, or equipment have been demonstrated to the director's satisfaction to better serve residents.

(2) The nursing home shall ensure requests for exemptions are in writing and include any necessary approvals from the local code enforcement authority and the state fire marshal.

(3) The nursing home shall ensure all exemptions granted under the foregoing provisions are kept on file at the nursing home.

NEW SECTION

WAC 388-97-410 State building code. The nursing home shall through its design, construction and necessary permits demonstrate compliance with the following codes:

(1) The Uniform Building Code, and Uniform Building Code Standards, as published by the International Conference of Building Officials as amended and adopted by the Washington state building code council and published as chapters 51-20 and 51-21 WAC;

(2) The Uniform Mechanical Code, including chapter 22, Fuel Gas Piping, Appendix B, as published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials as amended and adopted by the Washington state building code council and published as chapter 51-22 WAC;

(3) The Uniform Fire Code, and Uniform Fire Code Standards, as published by the International Conference of Building Officials and the Western Fire Chiefs Association as amended and adopted by the Washington state building code council and published as chapters 51-24 and 51-25 WAC;

(4) The Uniform Plumbing Code, and Uniform Plumbing Code Standards, as published by the International Association of Plumbing and Mechanical Officials, as amended and adopted by the Washington state building code council and published as chapters 51-26 and 51-27 WAC;

(5) The Washington state ventilation and indoor air quality code, as adopted by the Washington state building code council and filed as chapter 51-13 WAC; and

(6) The Washington state energy code, as amended and adopted by the Washington state building code council and filed as chapter 51-11 WAC.

NEW SECTION

WAC 388-97-415 Electrical codes and standards. The nursing home shall ensure:

All electrical wiring complies with state and local electrical codes including chapter 296-46 WAC, "rules and regulations for installing electrical wires and equipment and administrative rules," and the National Electric Code of the National Fire Protection Association (NFPA-70) as adopted by the Washington state department of labor and industry.

NEW SECTION

WAC 388-97-420 Elevator codes. The nursing home shall ensure elevators are installed in accordance with chapter 296-81 WAC.

NEW SECTION

WAC 388-97-425 Local codes and ordinances. The nursing home shall:

- (1) Follow all local ordinances relating to zoning, building, and environmental standards; and
- (2) Obtain all local permits before construction and keep permits on file at the nursing home.

NEW SECTION

WAC 388-97-430 Administration and public areas. (1) **ENTRANCES AND EXITS.** The nursing home shall have the main entrances and exits sheltered from the weather and accessible in accordance with chapter 51-20 WAC.

(2) **LOBBY.** The nursing home shall have a lobby or area in close proximity to the main entrance which is accessible and which includes:

- (a) Waiting space with seating accommodations;
- (b) Reception and information area;
- (c) Space to accommodate persons in wheelchairs;
- (d) Public restroom;
- (e) Drinking fountain; and
- (f) Public telephone.

(3) **INTERVIEW SPACE.** The nursing home shall have interview spaces for private interviews relating to social service and admission.

(4) **OFFICES.** The nursing home shall provide:

- (a) Office space convenient to the work area for the administrator, the director of nursing services, medical records staff, social services staff, activities director, and other personnel as appropriate;
- (b) Work space for physicians and outside consultants;
- (c) Space for locked storage of health records which provides for fire and water protection; and
- (d) Space for the safe storage and handling of financial and business records.

(5) **INSERVICE EDUCATION.** The nursing home shall provide space for employee inservice education that will not infringe upon resident space.

(6) **STAFF.** The nursing home shall ensure a lounge, lockers, and toilets are provided convenient to the work areas for employees and volunteers.

NEW SECTION

WAC 388-97-435 Resident care unit. (1) **REQUIRED SERVICES.** In a new building, the nursing home shall provide the array of required services referred to in WAC 388-97-325, Resident care unit, to support resident care and nursing needs and designed to serve a maximum of sixty beds on the same floor.

(2) **UTILITY SERVICE ROOMS.** In a new building, a resident room shall be not more than ninety feet from either a clean utility room or a soiled utility room. Utility rooms shall be designed and equipped to ensure separation of clean and sterile supplies and equipment from contaminated supplies and equipment.

(a) Each clean utility room shall have a work counter, a sink, and closed storage units for the supplies and small equipment.

(b) Each soiled utility room shall have:

- (i) A double-compartment sink with the inside dimensions of each compartment deep enough to totally submerge items being cleaned and disinfected;
- (ii) A three-foot long work surface adjacent to the sink which may be moveable;
- (iii) Drying/draining racks for wet equipment;
- (iv) Storage cabinets sufficient to store cleaning supplies and other items;
- (v) Locked storage for cleaning agents, disinfectants and other caustic or toxic agents;
- (vi) Adequate space for waste containers, linen hampers, and other large equipment;
- (vii) Work counters, sinks, and other fixed equipment arranged to prevent intermingling of clean and contaminated items during the cleaning process; and
- (viii) A siphon jet type clinic service sink or equivalent.

(3) **DRUG FACILITIES.** The nursing home shall have a room designed and equipped for drug preparation and locked storage near each work station.

(4) **LINEN STORAGE.** The nursing home shall provide:

- (a) A clean room for storage of clean linen and other bedding. This may be in an area within the clean utility room;
- (b) A soiled linen room for the collection and temporary storage of soiled linen. This may be in an area within the soiled utility room; and
- (c) Storage for linen barrels and clean linen carts.

(5) **EQUIPMENT STORAGE.** The nursing home shall have four square feet or more of storage space per bed for wheelchairs and other ambulation equipment which does not impinge upon the required corridor space.

NEW SECTION

WAC 388-97-440 Resident rooms. The nursing home shall ensure each resident room meets the following requirements:

(1) Designed to provide a safe, clean, comfortable, and homelike environment, allowing the resident to use his or her belongings to the greatest extent possible;

(2) The floor level is above grade level except for earth berms. "Grade" means the level of ground adjacent to the building floor level measured at required windows. The ground must be level or slope downward for a distance of at

least ten feet from the wall of the building. From there the ground may slope upward not greater than an average of one foot vertical to two feet horizontal within a distance of eighteen feet from the building;

(3) Each resident room is located to prevent through traffic;

(4) Every resident room has an outside room, and has a clear glass window located on an outside wall and has an area equal to not less than one-tenth of the usable floor space;

(a) Each resident room window is located twenty-four feet or more from another building or the opposite wall of a court or ten feet or more away from a property line, except on street sides. The outside window wall is eight feet or more from an outside public walkway; and

(b) Window sills are three feet or less above the floor.

(5) In a new building or addition, minimum room areas exclusive of toilet rooms, closets, lockers or wardrobes, alcoves, or vestibules are one-hundred and ten square feet per bed in multi-bed rooms, and one-hundred square feet in single bed rooms; and

(6) A new building or addition which submit plans for review after September 1, 1995, shall have a maximum capacity of two beds per resident room.

NEW SECTION

WAC 388-97-445 Resident room equipment. In a new building or addition, the nursing home shall ensure the provision of:

(1) Cubicle curtain or screen which provides a minimum of eight feet by eight feet of full visual, and auditory privacy per bed in each multi-bed room. Design for privacy shall not restrict the exit/access of other residents from/to the resident room, window, lavatory, toilet, or closet. "Full visual privacy" in a multi-bed room means curtains which prevent staff, visitors and other residents from seeing a resident in bed, but which allow staff, visitors, and other residents access to the toilet room, lavatory, and the entrance;

(2) A lavatory in each multi-bed room and a lavatory in each single room which does not have an adjoining toilet room containing a lavatory;

(3) Separate, enclosed wardrobe or closet for each bed in each room accessible to the resident. The inside dimensions are a minimum of twenty-two inches deep by thirty inches wide by sixty inches high. The space includes a rod, at least fifteen inches long, and allows for fifty-four inches of hanging space adjustable to meet the needs of the resident;

(4) Lockable shelf space or drawer for storage of personal belongings for each resident bed in addition to the bedside cabinet;

(5) Separate storage for extra pillows and blankets for each bed. This may be in a location convenient to the resident room or combined with the wardrobe or closet if it does not impinge upon the required space for clothing.

(6) A phone jack for each bed in each room.

NEW SECTION

WAC 388-97-450 Resident toilet and bathing facilities. (1) RESIDENT TOILETS. The nursing home shall:

(a) Provide a toilet room directly accessible from each resident room and from each bathing facility without going through a general corridor. One toilet room may serve two bedrooms;

(b) Provide at least one lavatory in each toilet room except when it opens into a single-bed room which has a lavatory;

(c) Design each resident toilet room to accommodate a person in a wheelchair; and

(d) Provide a properly located and securely mounted grab bar at each side of a toilet fixture in all toilet rooms and stalls.

(2) RESIDENT BATHING. The nursing home shall ensure:

(a) In each bathroom containing more than one bathing facility, each bathtub or shower or equivalent is in a separate room or compartment. The area for each bathtub and shower shall be sufficient to accommodate a shower chair and attendant and provide visual privacy;

(b) Shower and tub bottom surfaces are slip-resistant;

(c) Mobile and attached shower seats are constructed and maintained with a nonporous finish; and

(d) Grab bars are installed in accordance with the Uniform Building Code, chapter 51-20 WAC.

NEW SECTION

WAC 388-97-455 Required miscellaneous rooms and areas. (1) In a new building or addition, the nursing home shall design dining rooms, dayrooms, and activity areas for resident convenience and comfort and provide a homelike environment. The nursing home shall:

(a) Ensure these rooms or areas are exterior rooms with windows;

(b) Provide space for dining, day, and activity areas at a minimum of thirty square feet per bed for the first one hundred beds and twenty-seven square feet per bed in excess of one hundred;

(c) Locate a day room adjacent to each resident care unit;

(d) Provide designated dining and activity spaces separate from each other and designed to prevent program interference with each other;

(e) Provide storage spaces for all activity and recreational equipment and supplies, adjoining or adjacent to the facilities provided; and

(f) Conveniently locate a common use toilet facility with lavatory near each dining, day, and activity room.

(2) Visiting and private space. In a new building or addition, the nursing home shall design a separate room or areas for residents to have family and friends visit and for residents to spend time alone. The nursing home shall ensure these areas provide:

(a) Space which facilitates conversation and privacy; and

(b) Access to a common-use toilet facility.

(3) Outdoor recreation space and walkways. In a new building or addition, a nursing home shall provide a safe,

protected outdoor area for resident use. The nursing home shall ensure the outdoor area has:

- (a) Sufficient shaded and sheltered areas to meet the resident's needs;
 - (b) Accessible walking surfaces which are firm, stable, and free from cracks and abrupt changes;
 - (c) Sufficient space and outdoor furniture provided with flexibility in arrangement of the furniture to accommodate residents who use wheelchairs and mobility aids; and
 - (d) Plants.
- (4) Laundry storage. The nursing home shall ensure:
- (a) Soiled linens and soiled clothing are stored and sorted in a separate well-ventilated, lighted enclosed room apart from washing and drying facilities that has self-closing doors. There shall be a handwashing facility and a floor drain in the room; and
 - (b) Clean linen is stored in a separate well-ventilated enclosed room apart from washing and drying facilities.
- (5) General storage area. A nursing home shall have general storage space of not less than five square feet per bed in addition to the closets and storage required in WAC 388-97-445, Resident room.

NEW SECTION

WAC 388-97-460 Optional rooms and areas. (1)

Pools. The nursing home shall ensure swimming pools, spas, and tubs which remain filled between uses meet the requirements in chapter 246-260 WAC.

(2) Dementia care unit. In a new building or addition, the nursing home shall ensure a dementia care unit has:

- (a) Dining areas which provides a minimum of twenty square feet per resident;
- (b) A continuous ambulation route allowing the resident to return to the resident's starting point without reversing direction;
- (c) Egress door control devices only when the security locking is approved by the state fire marshal and conform to the following requirements:
 - (i) A security locking system which meets the fire and life safety requirements of the Uniform Building Code and the state building code such as, but not limited to, an approved automatic fire alarm system and an approved supervised automatic sprinkler system which is electrically interconnected with the fire alarm system;
 - (ii) Exits from the dementia care unit and building shall release automatically with activation of the building fire alarm system. Exits shall include secured outdoor space and walkways, walls, or fences and/or ambulation areas;
 - (iii) Keyed locks are prohibited in any egress path;
 - (iv) Releasing devices of security locking systems shall be labeled with directions at the egress path doors;
 - (v) An override switch shall be installed at each staff work station or at a constantly attended location within the building to override all other mechanisms and unlock exit doors in the event of an emergency;
 - (vi) If primary power to the building is lost, all security locking systems shall automatically release;
 - (vii) A copy of the written approval of the security locking system from the local officials enforcing the Uniform Building Code, Uniform Fire Code, and the state building code shall be on file at the nursing home.

(3) Pharmacy. The nursing home shall ensure an on-site pharmacy meets the requirements of the Washington state board of pharmacy per chapter 246-857 WAC.

NEW SECTION

WAC 388-97-465 General design requirements. (1) Accessible. The nursing home shall be readily accessible to a person with disability.

- (2) Vector control. The nursing home shall:
 - (a) Construct and maintain buildings to prevent the entrance of pests such as rodents and insects; and
 - (b) Provide mesh screens or equivalent with a minimum mesh of 1/16 inch on all windows and other openings which can be left open.
- (3) Elevators. The nursing home shall:
 - (a) Ensure all buildings having residential use areas or service areas located on other than the main entrance floor with an elevator.
 - (b) Locate at least one elevator sized to accommodate a resident bed and attendant for each sixty beds on floors other than the main entrance floor.
- (4) Stairways, ramps, and corridors. The nursing home shall ensure stairways, ramps and corridors conform with the Uniform Building Code, chapter 51-20 WAC.
- (5) Handrails. The nursing home shall provide handrails along both sides of all resident use corridors. The nursing home shall ensure:
 - (a) Ends of handrails are returned to the walls;
 - (b) Handrails are mounted thirty-four to thirty-eight inches above the floor and project not more than three and one-half inches from the wall; and
 - (c) Handrails terminate not more than six inches from a door.
- (6) Doors. The nursing home shall ensure:
 - (a) Doors to resident rooms provide a minimum of forty-four inches clear width;
 - (b) Doors to resident bathrooms and toilet rooms are a minimum of thirty-two inches clear width for wheelchair access;
 - (c) All doors to resident toilet rooms and bathing facilities open outward except if doors open directly into a resident occupied corridor;
 - (d) Doors to toilet rooms and bathrooms have locks, and a means of unlocking doors from the outside;
 - (e) Doors to occupied areas not swing into corridors; and
 - (f) All passage doors are arranged so that doors do not open onto or obstruct other doors.
- (7) Floor finishes. The nursing home shall ensure:
 - (a) Floors at all entrances have slip resistant finishes even when wet;
 - (b) All uncarpeted floors are smooth, nonabsorbent and easily cleanable;
 - (c) Coving. The nursing home shall ensure:
 - (i) Kitchens, restrooms, laundry, utility rooms, and bathing areas have integral coves of continuous commercial grade sheet vinyl, bullnose ceramic tile or sealed bullnose quarry tile at least four inches in height; and
 - (ii) All other wall junctions have either integral coving or top set base with toe.

(d) Carpets may be used in all areas except: toilet rooms, bathrooms, kitchen, laundry, utility rooms, medication rooms, maintenance, isolation rooms if provided, and areas subject to high moisture or flooding;

(e) Specifications for acceptable carpeting are:

(i) Pile yarn fibers are easily cleanable and meet the standards of NFPA 101 Life Safety Code;

(ii) Pile is looped texture in all resident use areas. Cut pile may be used in nonresident use areas;

(iii) Average pile density of five thousand ounces per cubic yard in resident use areas and four thousand ounces per cubic yard in nonresident areas;

(iv) A maximum pile height of .255 inches in resident use areas and .312 inches in nonresident use areas;

(v) Cemented to the floor; and

(vi) Edges covered and top set base with toe at all wall junctures.

(f) When recarpeting, the safety of residents shall be assured during and after recarpeting installation within room or area. The nursing home shall ensure the room or area is:

(i) Well ventilated;

(ii) Unoccupied; and

(iii) Unavailable for use until room is free of volatile fumes and odors.

(8) Walls. The nursing home shall ensure:

(a) Wall finishes are easily cleanable; and

(b) A water-resistant finish extending above the splash line in all rooms or areas subject to splash or spray, such as, bathing facilities, toilet rooms, janitors' closets, and can-wash areas.

(9) Accessories. The nursing home shall provide the following accessories with the necessary backing for mounting:

(a) Suitable shelf or equivalent and mirror at each lavatory in toilet rooms, resident rooms and locker rooms;

(b) Towel bars and/or hooks at each lavatory in resident rooms and at each bathing facility. Towel bars shall meet grab bar standards;

(c) A robe hook at each bathing facility, toilet room and in examination room or therapy area;

(d) A securely mounted toilet paper holder properly located within easy reach of the user at each toilet fixture;

(e) Sanitary seat covers, except where toilet seats are open front type;

(f) Dispensers for single use towels mounted to avoid contamination from splash and spray and located within reach of a person in a wheelchair;

(g) Suitable provision for dispensed handwashing soap at each lavatory, sink, and bathing facility;

(h) Sanitary napkin dispensers and disposers in public and employee women's toilet rooms; and

(i) Grab bars easily cleanable and resistant to corrosion.

(10) Miscellaneous. The nursing home shall ensure:

(a) Rooms and service areas are identified by visible and tactile signs; and

(b) Equipment and casework is designed, manufactured and installed for ease of proper cleaning and maintenance, and suitable for the functions of each area.

NEW SECTION

WAC 388-97-470 Heating, ventilation, and air conditioning system. (1) Heating system. The nursing home shall ensure:

(a) The heating system is capable of maintaining a temperature of seventy-five degrees Fahrenheit for areas occupied by residents and seventy degrees Fahrenheit for nonresident areas;

(b) Resident rooms have individual temperature control;

(c) The following is insulated within the building:

(i) Pipes conducting hot water which are exposed to resident contact; and

(ii) Air ducts and casings with outside surface temperatures below ambient dew point.

(d) Insulation on cold surfaces includes an exterior vapor barrier; and

(e) Electric resistant wall heat units are prohibited in new construction.

(2) Cooling system. The nursing home shall have:

(a) A mechanical cooling system capable of maintaining a temperature of seventy-five degrees Fahrenheit for areas occupied by residents; and

(b) A cooling system that has mechanical refrigeration equipment to provide summer air conditioning to resident areas, food preparation areas, laundry, medication rooms, and therapy areas by either a central system with distribution ducts or piping, or packaged room or zonal air conditioners.

(3) Ventilation system. The nursing home shall ensure:

(a) Ventilation of all rooms is designed to prevent objectionable odors, condensation, and direct drafts on the residents.

(b) All inside habitable space is mechanically ventilated including:

(i) All air-supply and air-exhaust systems;

(ii) Installation of air-handling duct systems which meet the requirements of the Uniform Mechanical Code and chapter 51-22 WAC;

(iii) Corridors are not used to supply air to, or exhaust air from, any room except that infiltration air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly on corridors;

(iv) Room supply air inlets, recirculation, and exhaust air outlets are located not less than three inches above the floor. Exhaust outlets shall be near the ceiling; and

(v) Outdoor air intakes are located as far as practical, but a minimum of twenty-five feet, from the exhausts from any ventilating system, combustion equipment, or plumbing vent, or areas which may collect vehicular exhaust and other noxious fumes. The nursing home shall locate the bottom of outdoor air intakes serving central systems as high as practical but a minimum of three feet above grade level or, if installed through the roof, three feet above the roof level.

TABLE A
PRESSURE RELATIONSHIPS AND VENTILATION OF CERTAIN AREAS

AREA DESIGNATION	Pressure Relationship To Adjacent Areas	Minimum Air Changes of Outdoor Air Supplied To Room Per Hour	Minimum Total¹ Air Changes Per Hour Supplied To Room	All Air Exhausted Directly To Outdoors	Recirculated Within Area
Activities/Dining	E or P	2	4	Optional	Optional
Bathroom	N	Optional	10	Yes	No
Clean linen storage	P	Optional	2	Optional	Optional
Clean workroom and clean holding	P	2	4	Optional	Optional
Dietary day storage	E or P	Optional	2		
Food prep center	E	2	8(10)	Yes	No
Isolation anteroom	NN	2	10	Yes	No
Isolation resident room	NN	2	2	Yes	No
Janitors' closet	N	Optional	10	Yes	No
Laundry, general	V	2	10	Yes	No
Linen and trash chute room	N	Optional	10	Yes	No
Medicine prep room	P	2	4	Optional	Optional
Occupational therapy	N	2	6	Optional	Optional
Personal care room	N	2	8	Optional	Yes
Physical therapy and hydrotherapy	N	2	6	Optional	Optional
Resident area corridor	P	2	2	Optional	Optional
Resident room	E or N	2	2	Optional	Optional
Soiled linen sorting and storage	N	Optional	10	Yes	No
Soiled workroom and soiled holding	N	2	10	Yes	No
Speech and hearing unit	E or P	2	2	Optional	Optional
Sterilizer equipment room	N	Optional	10	Yes	No
TB isolation resident room	NN	2	12 ²	Yes	No
TB isolation room anteroom	NN	2	12 ³	Yes	No
Toilet room and locker rooms	N	Optional	10	Yes	No
Treatment room	E or N	2	6	Optional	Optional
Warewashing room	N	Optional	8(10)	Yes	No

P=Positive N=Negative E=Equal V=May vary ()=Recommended NN=Very negative

^{1/} The outdoor air quantities for central systems employing recirculating and serving more than a single area designation may be determined by summing the individual area quantity requirements rather than by providing the maximum listed ratio of outdoor air to total air. Maximum noise level caused by toilet room exhaust fans shall be fifty decibels on the A sound level as per ASHRAE Table 7.

^{2/} Temporary imbalance at resident rooms as caused by intermittent toilet room or bathroom exhaust fans is permissible.

^{3/} TB isolation room: a minimum of six air changes may be permitted with a properly installed and maintained ultraviolet generator irradiation system. Fixture installation shall conform to the recommendation of the *Illuminating Engineering Society Handbook*, 5th edition, Section 25, "Ultraviolet Energy."

(c) Minimum ventilation requirements. Meet the pressure relationship and ventilation rates shown in Table A as minimum acceptable balanced rates when these areas/rooms are a part of the nursing home. The nursing home shall ensure:

(i) Exhaust hoods in food preparation centers and dishwashing areas have an exhaust rate not less than fifty cubic feet per minute per square feet of face area. "Face area" means the open area from the exposed perimeter of the hood to the average perimeter of the cooking surfaces;

(ii) All hoods over commercial type cooking ranges are equipped with fire extinguishing systems and heat actuated fan controls;

PROPOSED

(iii) Cleanout openings are provided every twenty feet in horizontal exhaust duct systems serving hoods;

(iv) Installation of equipment for removal of smoke and grease-laden vapors from cooking equipment comply with the Uniform Mechanical Code and chapter 51-22 WAC;

(v) Kitchen ventilation are adequate to provide comfortable working temperatures;

(vi) Boiler rooms, elevator equipment rooms, laundry rooms, and any other heat-producing spaces are provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures at the ceiling to ninety-seven degrees Fahrenheit; and

(vii) Individual toilet rooms and bathrooms are ventilated either by individual mechanical exhaust systems or by a central mechanical exhaust system.

(d) Individual exhaust systems.

(i) Where individual mechanical exhaust systems are used to exhaust individual toilet rooms or bathrooms, the individual ventilation fans are interconnected with room lighting to ensure a ventilation while room is occupied. The ventilation fan shall be provided with a time delay shutoff to ensure that the exhaust continues for a minimum of five minutes after the light switch is turned off;

(ii) Air discharge openings through roofs or exterior walls are protected against entry of weather elements and foreign objects. Automatic louvers or backdraft dampers are installed; and

(iii) The volume of air removed from the space by exhaust ventilation are replaced directly or indirectly by an equal amount of tempered/conditioned air.

(e) Central exhaust systems. The nursing home shall ensure:

(i) All fans serving central exhaust systems are located to prevent a positive pressure in the duct passing through an occupied area;

(ii) Fire and smoke dampers are located and installed in accordance with the Uniform Building Code chapter 51-20 WAC.

(f) Air filters. All central ventilation or air-conditioning systems are equipped with filters having efficiencies of at least eighty percent if the system supplies air to resident rooms, therapy areas, food preparation areas, or laundry areas. Filter efficiency is warranted by the manufacturer and is based on atmospheric dust spot efficiency per ASHRAE Standard 52-76. The filter bed is located upstream of the air-conditioning equipment, unless a prefilter is employed. In which case, the prefilter is upstream of the equipment and the main filter bed may be located downstream.

(i) Filter frames are durable and provide an airtight fit with the enclosing duct work. All joints between filter segments and enclosing duct work are gasketed or sealed.

(ii) All central air systems have a manometer installed across each filter bed with an alarm to signal high pressure differential.

(iii) Humidifiers, if provided, are a steam type.

(2) Lighting. The nursing homes shall ensure facility lighting provides the best visual acuity possible for residents.

(3) Natural light. In new buildings and additions, the nursing home shall utilize:

(a) Windows and skylights to minimize the need for artificial light and to allow a resident to experience the natural daylight cycle; and

(b) The use of windows and skylights near entrances/exits in order to avoid difficulty in adjusting to light levels when entering or leaving the facility.

(4) Illumination levels. The nursing home shall ensure:

(a) Lighting fixtures and circuitry provide at least the illumination levels shown within Table B; and

(b) Design takes into consideration that lighting systems normally decrease in output with age and dirt accumulation. Light fixture locations and switching arrangements shall be appropriate for the needs of the occupants of the spaces and following Illuminating Engineering Society (IES) recommendations for health care facilities.

TABLE B

Average Maintained

Footcandles

Area	Ambient Light ¹	Task Light ²
Activity	30	50
Adm and lobby, day	30	NA
Adm and lobby, night	20	NA
Barber, beautician	50	NA
Chapel, quiet area	30	NA
Corridors, interior ramps	30	NA
Dining areas	50	NA
Doorways, exterior	20	NA
Exam, treatment table	NA	100
Exam, treatment room	30	50
Exit stairways and landings	30	NA
Food preparation areas	50	75
Janitor's closet	30	NA
Laundry	30	50
Medicine prep area	30	100
Nurses' desk	30	70
Nurses' station, day	30	50
Nurses' station, night	20	50
Physical therapy	30	50
Resident room	30	50
Resident reading light	NA	75
Recreation area	30	50
Toilet, bathing facilities at lavatories, and mirrors	30	50
Toilet and bathing facilities, general	30	NA
Utility room, general	30	
Utility room, work counter	NA	50
Worktable, course work	30	70
Worktable, fine work	50	100

^{1/} Ambient light measurements are taken two and one-half feet from the floor (plus or minus six inches). Minimum footcandles are based upon average measurement. A minimum of three measurements should be taken, including a measurement at the center of each area, near the outer perimeter, and at a point equidistant from the center and the perimeter measurement.

^{2/} Task light measurements are taken at the work surface. Minimum footcandles for task light are based upon average measurement. A

NEW SECTION

WAC 388-97-475 Electrical. (1) Emergency power. The nursing home shall ensure emergency power equipment referred to in WAC 388-97-315, Emergency power, meets earthquake standards.

minimum of three measurements should be taken, including a measurement at the center of each work surface, near the outer perimeter of the work surface, and at a point equidistant from the center and the perimeter measurement.

(5) Receptacle outlets. The nursing home shall ensure:

(a) There are a minimum at least four electrical outlets located convenient to each resident's bed and placed at least forty inches above the floor. The nursing home shall ensure a minimum of:

(i) Two additional electrical outlets at separate, convenient locations in each resident room;

(ii) One duplex receptacle outlet located adjacent to each lavatory intended for resident use.

(b) All receptacle outlets located within five feet of a sink, lavatory, toilet, bath, or shower are protected by a ground fault circuit interrupter.

(6) Night lights. The nursing home shall ensure a dim night light to provide pathway lighting is:

(a) Flush mounted on the wall;

(b) Centered about fourteen inches above the floor; and

(c) Controlled by a switch at the entrance door in each resident room or by a master switch.

(7) Switches. The nursing home shall install quiet operating switches for general illumination adjacent to doors in all areas and accessible to residents in resident rooms.

NEW SECTION

WAC 388-97-480 Plumbing, fixtures. (1) Lavatories. The nursing home shall provide lavatories in each toilet room except where provided in an adjoining single resident room, dressing room, or locker room.

(2) Drinking fountains. Where drinking fountains are installed, the nursing home shall ensure the fountains are of the inclined jet, sanitary type.

(3) Mixing valves. The nursing home shall provide each fixture, except toilet fixtures and special use fixtures, with hot and cold water through a mixing valve.

(4) Spouts. The nursing home shall ensure all lavatories and sinks in resident rooms, resident toilet rooms, and utility and medication areas have gooseneck spouts.

(5) Wrist blades. The nursing home shall provide four inch wrist blade controlled faucets or their equivalent at all sinks and lavatories. The nursing home shall:

(a) Install the wrist blades to provide four inches clear in full open and closed position; and

(b) Color-code and label faucet handles to indicate "hot" and "cold."

(6) Backflow prevention devices. The nursing home shall:

(a) Provide backflow prevention devices on the water supply to fixtures or group of fixtures where extension hoses are installed or are anticipated to be installed; and

(b) Prohibit all cross connections.

**WSR 94-14-026
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION**

[Filed June 27, 1994, 2:35 p.m.]

Original Notice.

Title of Rule: WAC 468-300-010, 468-300-020, and 468-300-040.

Purpose: The adoption of a revised schedule of tolls for the Washington state ferry system, amending WAC 468-300-010, 468-300-020, and 468-300-040.

Statutory Authority for Adoption: RCW 47.56.030 and 47.60.326.

Statute Being Implemented: RCW 47.60.326.

Summary: To revise the existing schedule of tolls for the Washington state ferry system.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Michael T. McCarthy, Seattle Ferry Terminal, (206) 464-6428.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Implementation of Phase Two of tow [the] tariff review study. There are no major effects anticipated.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

Hearing Location: Transportation Building, Board Room 1D2, Olympia, Washington 98504, on August 18, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Tammy Osborne by August 17, 1994, TDD (206) 705-6980, or (206) 705-6602.

Submit Written Comments to: Ben Klein, Department of Transportation, Marine Division, Olympia, Washington 98504-7318, FAX (206) 705-6806, by August 17, 1994.

Date of Intended Adoption: August 18, 1994.

June 27, 1994

Chris R. Rose

Administrator

Transportation Commission

PROPOSED

AMENDATORY SECTION (Amending Order 75, filed 3/18/94, effective 4/18/94)

WAC 468-300-010 Ferry passenger tolls.

Effective 03:00 a.m. (~~May 8~~) October 9, 1994

PROPOSED

ROUTES	Full Fare	Half Fare	Frequent User Ticket Book 20 Rides ¹	Monthly Pass ⁵	Bicycle Surcharge ² @ ⁶
Via Passenger-Only Ferry					
*Seattle-Vision					
*Seattle-Southworth	3.50	1.75	21.00	<u>44.10</u>	N/C
*Seattle-Bremerton					
Via Auto Ferry					
*Fauntleroy-Southworth					
*Seattle-Bremerton					
*Seattle-Winslow	3.50	1.75	21.00	<u>44.10</u>	0.50
*Edmonds-Kingston					
Port Townsend-Keystone	1.75	0.90	21.00	<u>N/A</u>	0.25
*Fauntleroy-Vashon					
*Southworth-Vashon	2.30	1.15	13.70	<u>29.00</u>	0.50
*Pt. Defiance-Tahlequah					
*Mukilteo-Clinton					
*Anacortes to Lopez Shaw, Orcas or Friday Harbor	4.95	2.50	29.60	<u>N/A</u>	2.75
Between Lopez, Shaw, Orcas and Friday Harbor ⁴	N/C	N/C	N/C	<u>N/A</u>	N/C
International Travel					
Anacortes to Sidney and Sidney to all destinations	((6.50)) <u>6.90</u>	((3.25)) <u>3.45</u>	N/A	<u>N/A</u>	((4.25)) <u>4.50</u>
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	((1.50)) <u>1.75</u>	((0.75)) <u>1.00</u>	N/A	<u>N/A</u>	((1.50)) <u>1.75</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ³	((8.00)) <u>8.65</u>	((4.00)) <u>4.45</u>	N/A	<u>N/A</u>	((5.75)) <u>6.25</u>

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹FREQUENT USER TICKETS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage.

²BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

³ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

⁴INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

⁵MONTHLY PASS - A monthly passenger pass is available for all routes except: Anacortes/San Juan Island/Sidney and Port Townsend/Keystone, as a pilot program. The pass is available through some local employers. It is a flash pass valid for the month printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 21 days of passenger travel with a 40% discount.

⁶BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney and Port Townsend/Keystone, as a 1 year pilot program for a \$10.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

HALF FARE - Children under five years of age will be carried free when accompanied by parent or guardian. Children five through eleven years of age will be charged half-fare. Children twelve years of age will be charged full-fare.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

- MEDICARE CARD HOLDERS** - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.
- FERRY/TRANSIT PASS** - A combination ferry-transit monthly pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 21 days of passenger travel at a 50% discount.
- PROMOTIONAL TOLLS** - A promotional rate may be established at the discretion of the secretary of transportation for a specific discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).
- SCHOOL GROUPS** - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Walk-on groups and private vehicles require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect.

AMENDATORY SECTION (Amending Order 75, filed 3/18/94, effective 4/18/94)

WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.

Effective 03:00 a.m. (~~May 8~~) October 9, 1994

ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle Under 20' w/ Sr. Citizen or Disabled Driver ⁴	Vehicle Under 20' Over Height Surcharge ¹	Frequent User Ticket book 20 Rides ²	Motorcycle/Stowage ⁵ Incl. Driver Stowage ² One Way	(Vehicle) Motorcycle w/Sr Citizen or Disabled Driver Stowage ² One Way	(Motorcycle/Stowage⁵ Incl. Driver) Frequent User Ticket book 20 Rides ²
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Port Townsend-Keystone Edmonds-Kingston	5.90	5.05	((3.55)) <u>3.80</u>	94.15	2.60	<u>1.75</u>	41.55
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	7.85	6.85	((4.80)) <u>5.10</u>	63.60	3.40	<u>2.25</u>	27.15
Mukilteo-Clinton	4.00	3.40	((2.40)) <u>2.55</u>	63.60	1.70	<u>1.15</u>	27.15
	10 Rides						
*Anacortes to Lopez	12.30	9.85	((7.35)) <u>7.80</u>	49.20	6.40	<u>3.95</u>	51.30
*Shaw, Orcas	14.70	12.20	((8.80)) <u>9.35</u>	58.75	6.90	<u>4.45</u>	55.15
*Friday Harbor	16.80	14.35	((10.10)) <u>10.75</u>	67.20	7.30	<u>4.85</u>	58.55
Between Lopez, Shaw, Orcas and Friday Harbor@ ³	7.00	7.00	((4.25)) <u>4.50</u>	27.50	2.00	<u>2.00</u>	N/A
<i>International Travel</i>							
Anacortes to Sidney and Sidney to all destinations	((27.90)) <u>29.70</u>	24.70 <u>26.30</u>	16.75)) <u>17.85</u>	N/A	((10.75)) <u>11.45</u>	<u>8.00</u>	N/A
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	((13.25)) <u>14.00</u>	12.50 <u>13.25</u>	8.00)) <u>8.50</u>	N/A	((3.75)) <u>4.00</u>	<u>3.25</u>	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) ⁶	((41.15)) <u>43.90</u>	37.20 <u>39.55</u>	24.75)) <u>26.35</u>	N/A	((14.50)) <u>15.45</u>	<u>11.25</u>	N/A

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one-point toll collection system.

PROPOSED

- ¹SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay a height surcharge of 60% of the vehicle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height surcharge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.
 - ²FREQUENT USER TICKETS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage.
 - ³INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.
 - ⁴SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSR Disability Travel Permit and such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.
 - ⁵MOTORCYCLES - The motorcycle including driver fare includes motorcycles pulling trailers and motorcycles with side cars.
 - ⁶ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.
- VANPOOLS - A commuter vanpool which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$10 fee, a permit valid for one year valid only during the hours shown on the permit. These hours are selectable by the purchaser but shall designate two periods of use each day not to exceed two hours per period. The \$10.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare.
- STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.
- PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.
- PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.
- PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the secretary of transportation for a specified discount (not to exceed 50 percent of full fare) and effective only at designated times on designated routes (not to exceed 100 days per year on any one route).

AMENDATORY SECTION (Amending Order 75, filed 3/18/94, effective 4/18/94)

WAC 468-300-040 Oversize vehicle ferry tolls.

Effective 03:00 a.m. (~~May 8~~) October 9, 1994

ROUTES	Oversize Vehicle Ferry Tolls ¹							Cost Per Ft. Over 80'
	Overall Unit Length - Including Driver							
	20' To Under 30'	30' To Under 40'	40' To Under 50'	50' To Under 60'	60' To Under 70'	70' To and Include 80'		
Fauntleroy-Southworth Seattle-Bremerton Seattle-Winslow Port Townsend-Keystone Edmonds-Kingston	(14.10) <u>15.00</u>	18.80 <u>20.00</u>	25.75 <u>27.40</u>	30.90) <u>32.90</u>	41.20	47.10	0.60	
*Fauntleroy-Vashon *Southworth-Vashon *Pt. Defiance-Tahlequah	(19.10) <u>20.35</u>	25.45 <u>27.10</u>	34.80 <u>37.05</u>	41.80) <u>44.50</u>	55.70	63.60	0.80	
Mukilteo-Clinton	(9.55) <u>10.15</u>	12.70 <u>13.50</u>	17.40 <u>18.50</u>	20.90) <u>22.25</u>	27.85	31.80	0.40	
*Anacortes to Lopez ² *Shaw, Orcas *Friday Harbor	(35.25) <u>37.55</u>	47.00 <u>50.05</u>	64.25 <u>68.40</u>	77.10) <u>82.10</u>	102.80	117.50	1.50	
Between Lopez, Shaw, Orcas and Friday Harbor ³	(14.75) <u>15.75</u>	14.75 <u>15.75</u>	14.75) <u>15.75</u>	58.25	58.25	58.25	N/A	
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	(53.25) <u>55.75</u>	69.85 <u>74.35</u>	87.25 <u>92.90</u>	104.70 <u>111.45</u>	156.40 <u>166.50</u>	178.65 <u>190.20</u>	2.25) <u>2.40</u>	

PROPOSED

From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	((17.00	22.75	23.00	27.50	53.50	61.25	0.75))
	<u>18.10</u>	<u>24.25</u>	<u>24.50</u>	<u>29.25</u>	<u>57.00</u>	<u>65.25</u>	<u>1.00</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)⁴	<u>73.75</u>	<u>98.60</u>	<u>117.40</u>	<u>140.70</u>	<u>223.50</u>	<u>255.45</u>	<u>3.40</u>

@ These fares rounded to the nearest multiple of \$.25.

* These routes operate as a one-point toll collection system.

¹OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles which are 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses shall travel free upon display of an annual permit which may be purchased for \$10.

²STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.

³INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for interisland travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

⁴ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

PEAK SEASON SURCHARGE - A 20% surcharge shall be applied effective the second Sunday in May through the second Sunday in October to all vehicles except those using frequent user tickets.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one-way crossings per week (Sunday thru Saturday) will qualify for a 20% discount from the regular ferry tolls.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

EXPRESS SHIPMENTS - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees. Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

MEDICAL SUPPLIES - A flat handling charge of \$5.00 per shipment is charged.

DISCLAIMER - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

**WSR 94-14-034
PROPOSED RULES
DEPARTMENT OF AGRICULTURE**

[Filed June 28, 1994, 4:17 p.m.]

Original Notice.

Title of Rule: Milk processing assessments and collections.

Purpose: To establish expiration/renewal dates for new milk processing plant license as required under RCW 15.32.110 as recodified by chapter 143, Laws of 1994.

Statutory Authority for Adoption: RCW 15.32.110 as recodified by chapter 143, Laws of 1994.

Statute Being Implemented: Chapter 15.32 RCW.

Summary: Sets expiration/renewal dates for annual milk processing plant license.

Reasons Supporting Proposal: Needed for enforcement activities to protect the public from possible harm.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Verne Hedlund, 1111 Washington Street, Olympia, 902-1860.

Name of Proponent: Washington Department of Agriculture, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Revision of dairy statutes established milk processing plant license required for plants which process milk into dairy products for human consumption. Provides for enforcement actions against license when necessary to protect the public health from dairy products which contain harmful or deleterious substances or do not conform to grade standards.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Cost to business is negligible, less than \$50.00. License fee = \$25.00/year. Replaces \$10.00/year license under RCW 15.32.110.

Hearing Location: Washington Department of Agriculture, 1111 Washington Street, Natural Resources Building, Room 271, Olympia, WA 98504, on August 10, 1994, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Julie Carlson by August 3, 1994, TDD (206) 902-1996.

PROPOSED

Submit Written Comments to: Verne Hedlund, FAX
(206) 902-2087, by August 10, 1994.

Date of Intended Adoption: August 24, 1994.

June 27, 1994

Michael J. Donovan
Acting Assistant Director

NEW SECTION

WAC 16-103-010 Purpose. These rules are promulgated under the authority of RCW 15.32.110 as recodified by chapter 143, Laws of 1994. The purpose of these rules is to establish a renewal date for the annual milk processing plant license.

NEW SECTION

WAC 16-103-020 Milk processing plant license. The licensing period for milk processing plants shall begin on July 1 and run through the following June 30. All annual milk processing plant licenses shall expire on June 30 of each year.

**WSR 94-14-037
PROPOSED RULES
DEPARTMENT OF
VETERANS AFFAIRS
[Filed June 29, 1994, 8:10 a.m.]**

Supplemental Notice to WSR 94-09-043.

Title of Rule: Chapter 484-20 WAC (except 484-20-065).

Purpose: Define rule changes for the Medicaid certified programs at the state veterans homes and to clarify, when appropriate, differences between rules for Medicaid funded programs and rules for non-Medicaid funded programs.

Statutory Authority for Adoption: RCW 43.60A.070.

Statute Being Implemented: Chapter 72.36 RCW.

Summary: WAC 484-20-010 Definitions, subsection (1) admission team, change veterans benefit "counselor" to veterans benefit "specialist" to avoid confusion with federal job title, subsection (2) add definition, administrative action, subsection (10) add definition, grievance investigator, and subsection (19) add definition, staff; WAC 484-20-015 (3)(b), Application for admission, add language which clarifies the requirement for a preadmission screening and if necessary a preadmission screening and annual resident review (PASARR); WAC 484-20-025 Eligibility—State residency, minor change in language for clarity and to shorten sentences; WAC 484-20-030 Eligibility—Military service, add "on active duty" to subsections (a)(i), (a)(ii), (b) and (c) to clarify the service military service must be active duty service vs. inactive duty service; WAC 484-20-040 Eligibility—Indigency, change title from "Eligibility—Resource limitation" to "Eligibility—Indigency." To clearly state the requirement of indigency as a criteria for admission to the state veterans homes. Changed the language in this section to define indigency and delete language which is repeated in other sections; WAC 484-20-045 Eligibility—Inability to support self/need for care, add "need for care" to the title to demonstrate to dual eligibility requirement of inability to support self and also the need for care and

services offered at the state veterans homes. Delete language referring to income limitations as this is not included by reference to WAC 484-20-040; WAC 484-20-050 Eligibility—Income, repeal this section. Language is duplicated in WAC 484-20-040; WAC 484-20-061 Comprehensive care/service plan, changed language to reflect OBRA care plan requirements; WAC 484-20-062 Vocational rehabilitation programs; eligibility, admission and discharge, changed language in subsection (4) to reflect practice of screening a resident's initial application to determine eligibility prior to transferring to a nonrehabilitation section of the facility; WAC 484-20-068 Resident council, change language in subsection (6) to remove the superintendent from the process which approves appointments to fill vacancies on the resident council. Appointments are made by a majority of the remaining council members. Restored language requiring monthly "public" council meetings, with locations, times and dates of such meetings published well in advance to ensure maximum attendance; WAC 484-20-080 annual declaration of income and assets, changed language in subsections (1)(b) and (c) to change the reporting time from five to fifteen days. Add "initiate" to subsection (2) to clarify that residents must comply with any reporting requirements necessary to initiate as well as continue any benefits and/or pensions to which he/she is entitled; WAC 484-20-085 Residents' rights and facility rules, add language to clarify that information related to residents' rights and facility rules are provided at the time of admission and within fifteen days of any change; WAC 484-20-087 Resident rights, add language to subsection (12) to reflect facility practices. Residents receive instructions re: Protecting and securing valuables and cash; WAC 484-20-089 Washington Soldiers Home Colony—Rights and responsibilities, change language in subsection (1)(g) to clarify that the superintendent does not make burial arrangements which are against the wishes of the resident or his/her next of kin. Change language in subsection (2)(a)(ii) from five to fifteen days for reporting changes in income or resources, to maintain consistency with reporting periods in other sections; WAC 484-20-090 Facility rules, change language in subsection (1)(b) to clarify expectations regarding cleanliness of living quarters. Add language in subsection (1)(c) to specify the type of refrigerators which may be used in a resident's room and to specify that all refrigerators must be approved by the facility electrician. Add subsection (1)(h) to include smoking rules/restrictions; WAC 484-20-100 Violation—Investigation, minor change in language for clarity; WAC 484-20-103 Administrative action, notice of, added clarifying language to the administrative notice process; WAC 484-20-105 Dispute settlement, minor change in language in subsection (1)(a) for clarity. Add language to subsection (2)(a) clarify that a resident may also request an adjudicative proceeding upon receipt of a final decision under the informal settlement provisions of this section. Add clarifying language to subsection (2)(b); WAC 484-20-115 Furlough—Non-Medicaid funded program residents, delete references to "earning" of furlough time. Add language which clarifies the length of time a resident may be absent from the facility (on furlough) without needing a review to determine continuing need for care and services; WAC 484-20-116 Social leave—Medicaid funded program residents, delete references to "earning" of social leave;

WAC 484-20-120 Transfer, discharge and denial of colony benefits, change title from "discharge" to "transfer, discharge and denial of colony benefits." Change language to reflect OBRA guidelines for transfer or discharge from a facility. Add language which clarifies the circumstances which may result in the denial of colony benefits to a colony resident; WAC 484-20-140 Readmission, corrected WAC reference given in this section; and WAC 484-20-145 Burial in the state veterans home cemetery, add "in the state veterans home cemetery" to the title. Change language to clarify the requirement for burial in a state veterans home cemetery and that a resident's remains will not be buried in a manner which is against his/her previously stated wishes.

Name of Agency Personnel Responsible for Drafting: Sherri Madison, P.O. Box 698, Retsil, WA 98378, (206) 895-4485; Implementation and Enforcement: Beau Bergeron, 505 East Union, Olympia, WA 98504, (206) 753-4522.

Name of Proponent: Department of Veterans Affairs, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Define rule changes for the Medicaid certified programs at the state veterans homes and to clarify, when appropriate, differences between rules for Medicaid funded programs and rules for non-Medicaid funded programs.

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: Washington Veterans Home, Retsil, Washington 98378, on August 16, 1994, at 9:00 a.m.; and at the Washington Soldiers Home, Orting, Washington 98360, on August 17, 1994, at 9:00 a.m.

Submit Written Comments to: Sherri Madison, P.O. Box 398 [698] Mailstop WR-01, Retsil, WA 98378, by August 16, 1994.

Date of Intended Adoption: August 31, 1994.

June 29, 1994

A. J. "Beau" Bergeron
Director

Chapter 484-20 WAC
~~((WASHINGTON SOLDIERS' HOME AND COLONY - WASHINGTON VETERANS))~~
STATE VETERANS HOMES

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-010 Definitions. The following words or phrases are used in this chapter in the meaning given, unless the context clearly indicates another meaning.

~~(1) ((Allowable income - See personal needs allowance.~~

~~(2)) Admission team - A team consisting of a designated veterans benefit specialist and designated medical or nursing staff.~~

(2) Adjudicative proceeding - A proceeding before an agency in which an opportunity for hearing before that agency is required by statute or constitutional right before or after the entry of an action by the agency.

(3) Administrative action - An act (as defined in RCW 34.05.010(3) taken by the agency or facility which implements or enforces a statute, applies an agency rule or order imposes sanctions or withholds benefits.

(4) Comprehensive care/services plan - A plan which outlines details of health care and services which the resident needs and receives.

(5) Department - The department of veterans affairs ((~~(WDVA)~~)).

~~((3))~~ (6) Director - The director of the department of veterans affairs or his/her designee.

~~((4))~~ (7) Facility - A synonym for either the Washington veterans(~~(2)~~) home or the Washington soldiers(~~(2)~~) home.

~~((5) Gross misconduct - Intentional or negligent conduct evidencing substantial disregard (a) for the interests of other home member(s), staff person(s), or visitor(s), or (b) for the offending member's duties and obligations as a member of the home.~~

~~(6) Income - Money or other gain received by a resident, or a resident and his/her spouse, on any incremental basis (e.g., yearly, semi-annually, monthly, weekly, or daily) from sources such as but not limited to: Veterans' benefits, Social Security, civil service annuities, retirement benefits, royalties, interest on bonds, savings accounts, certificates of deposit or similar instruments, and/or earnings. Nonincremental such as but not limited to, distributions derived from interest payments, unanticipated payments on stock held by a resident, and royalties paid for creative endeavors are also considered income for purposes of this section.~~

~~(7) Member - See "resident" below.)~~

(8) Furlough - An approved absence from the facility for residents of non-Medicaid funded programs.

(9) Grievance - A statement of any difficulty, disagreement, or dispute relating in any way to a facility, a resident or facility staff made orally or in writing.

(10) Grievance investigator - Facility staff; either social service staff or an appropriate department supervisor; assigned to investigate a grievance.

(11) Income - The receipt by an individual of any property or service which he/she can apply either directly, by sale, or conversion to meet his/her basic needs for food, clothing, and shelter.

(a) Earned income - Gross wages for services rendered and/or net earnings from self-employment. Earned income received at predictable intervals other than monthly or in unequal amounts will be converted to a monthly basis.

(b) Unearned income - All other income.

(12) Personal needs allowance - The amount which a resident may retain from his/her income.

(13) Rehabilitation leave - A period of time granted to permit a resident to attempt to reestablish independent living or other care arrangements in a community of his/her choice while retaining the right to return to the facility without reapplying for admission.

(14) Resources - Cash or other liquid assets or any real or personal property that an individual or spouse, if any, owns and could convert to cash to be used for support or maintenance.

(a) If an individual can reduce a liquid asset to cash, it is a resource.

(b) If an individual cannot reduce an asset to cash, it is not considered an available resource.

(c) Liquid - Assets that are in cash or are financial instruments which are convertible to cash such as, but not limited to, cash in hand, stocks, savings, checking accounts, mutual fund shares, mortgage, promissory notes.

(d) Nonliquid - All other property both real and personal shall be evaluated according to the price that can reasonably be expected to sell for on the open market in the particular geographical area involved.

(15) Resident - An individual ((admitted to the Washington soldiers' home, the Washington soldiers' home colony or the Washington veterans')) who resides at a state veterans home.

((9) Personal needs allowance - The minimum amount (as defined in RCW 72.36.120 and 72.36.130) which a resident may retain from his/her income.

(10) Rehabilitation furlough - A period of time granted by a superintendent or designee, permitting a resident to attempt to reestablish independent living or other care arrangements in a community of his/her choice while retaining the right to return to the soldiers'/veterans' home without reapplying for admission.

(11) Patient care plan - A plan which outlines details of health care which the resident needs and receives. Those residents who do not meet admission criteria for age and/or permanent disability must have specific rehabilitation goals included in their patient care plan.

((2)) (16) Resident council - A ((duly constituted body)) group of residents elected by ((the)) facility residents ((in accordance with RCW 72.36.120 and 72.36.130. The resident council when serving in a capacity other than that specified in RCW 72.36.120 and 72.36.130, acts in an advisory capacity to the facility's administration in those cases where the RCWs and WACs so specify)). The resident council serves in an advisory capacity to the facility superintendent and the department director.

((13) Superintendent - The superintendent of the Washington soldiers' home and colony and/or the superintendent of the Washington veterans' home.) (17) Social leave - An approved absence from the facility for residents of Medicaid funded programs.

(18) State veterans home - Refers to either the Washington soldiers home and colony in Orting or the Washington veterans home in Retsil, or both.

(19) Staff - Any individual hired or contracted to provide care and services at the state veterans homes.

(20) Superintendent - The licensed nursing home administrator appointed by the director to administer the day-to-day operations of a state veterans home.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-015 Application for admission. (1) ((An)) Applications for admission to ((membership in the Washington veterans' home, the Washington soldiers' home or the Washington soldiers' home colony)) a state veterans home shall be made ((to the department on)) using forms prescribed by the ((agency)) department. ((Applications may be made for an indefinite or for a specified period of time.))

(2) ((An applicant)) All applications shall ((submit)) include either a copy of ((his or her)) the applicant's military discharge or a statement from the applicable military service

denoting the dates and character of service ((with the application)). An individual whose eligibility is based on the military service of a spouse shall provide proof of the spouse's military service.

(3) ((Designated agency staff shall review the application and all supporting documents and recommend approval or disapproval for admission. The applicant will receive written notice of the decision. If an applicant is denied admission, the written notice shall include a statement of the reason and authority for denial. The letter will be signed by the agency staff responsible for recommending disapproval for admission.

(4) An applicant denied admission may, within thirty days of mailing of a written notification of denial, submit a written request for reconsideration to the agency staff person(s) responsible for the application denial.

(5) If the applicant disagrees with the decision of the agency staff designated in subsection (4) of this section, (s)he may submit a written request for review to the director. Within thirty days of receipt of the written request for review, the director, or designee, shall make a written reply to the applicant.

(6) Subject to the bed availability in the appropriate level of care and the ability of the home(s) to provide the required care, individuals shall be admitted in the order in which their applications are approved. If the needs of the applicant are of such a nature that current care programs at the facility(ies) cannot meet his/her needs, the superintendent may disapprove the application.) An admissions team shall:

(a) Review each application to ensure inclusion of all information and documents necessary to determine eligibility for admission;

(b) Ensure a preadmission screening (in accordance with WAC 388-88-095) and if necessary a preadmission screening and annual resident review (PASARR) (in accordance with WAC 388-88-097) have been conducted; and

(c) Recommend to the director that the application be approved or denied. The applicant shall receive written notice of the decision in accordance with WAC 484-20-103.

(4) Applications are reviewed and approved or denied in the order of receipt.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-020 Conditions of eligibility for admission. An applicant shall be eligible for admission only if (s)he meets the requirements of chapter 72.36 RCW and ((the rules of WAC 484-20-025 through 484-20-060)) this chapter.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-023 Admission to ((department of veterans' affairs health care facilities)) a state veterans home. (1) ((Consideration for admission to a DVA care facility shall be on the basis that each facility has the ability to provide the appropriate care services to meet the needs of the applicant. Veterans will be given preference over nonveterans for admission purposes if budgeting and/or bed limit constraints require.

(2) Admissions to each of the respective WDVA facilities shall be in the chronological order that applications are approved.

(3) A waiting list will be maintained at each facility for all established levels of service. As applicants are approved and levels of service established, applicants names shall be added in chronological order to established waiting lists.

(4) An applicant may be denied admission, or have his/her position on a specific service waiting list changed to another service waiting list, when:

(a) In the interim between application and scheduled admission, the applicant's needs have changed which will require different degrees of services to meet his/her needs;)) Each state veterans home maintains several waiting lists, one for each program or service offered. The names of applicants who are approved for admission shall be placed on the waiting list for the program or service which the admission team has determined shall be most appropriate based on their health care/service needs.

(2) Applicants are admitted from the waiting lists in the order in which their applications are approved; subject to bed availability in the program or service area for which admission has been approved.

(3) An applicant may be denied admission, or be moved from one waiting list to another when in the interim between application approval and scheduled admission:

(a) The applicant's health care needs have changed to the extent that the program or service for which he/she was originally approved can no longer meet his/her health care needs; or

(b) The applicant's service needs have changed to such ((a degree)) an extent that the facility can no longer meet the applicant's health care/service needs. ((Prior to scheduling admission, any person whose application is over one hundred eighty days old is required to have his/her physician update the medical data:))

(4) Any applicant whose name has been on a waiting list over ninety days is required to submit an up-to-date medical information form completed by his/her physician prior to being given an admission date.

(5) If an applicant declines a scheduled admission, (s)he will be placed at the bottom of the appropriate service waiting list. The next person on the waiting list will be invited for admission.

(6) If the applicant's financial status has changed ((during the period)) in the interim between application approval and scheduled ((date for)) admission, or additional financial information becomes available, ((a new financial assessment shall be required. The applicant's eligibility will be reassessed)) the applicant must submit an updated financial information form. If the ((revised)) change in financial status makes the applicant ineligible, due to excess resources, the ((director, for good cause, may approve admission)) applicant may be admitted under the provisions of WAC 484-20-040.

((7) Prior to admission, the applicant shall be required to sign a payment agreement which will stipulate the method and time of payments to the home; the amount required in payment each month; and penalties for nonpayment. Further, the applicant shall be required, upon admission, to submit changes of address directing benefit checks and other sources of income to be routed to the home's business office

where they may be opened by the resident in the presence of authorized staff:))

NEW SECTION

WAC 484-20-024 Cost of care payment agreement.

Prior to admission, all applicants are required to sign a cost of care payment agreement which states the monthly charges for care, the due date for monthly payments, the source of funds from which payment is to be made and the consequences of nonpayment.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-025 Eligibility—State residency. An applicant shall be a resident of the state of Washington at the time of application and at the time ((when the applicant is to be admitted)) of admission to the state veterans home. An applicant shall be considered a Washington state resident if (s)he:

(1) Is living in the state at the time of application and has established residence either by declaring an intent to remain in the state or has an unbroken period of physical residence in the state;

(2) Is not living in this state at the time of application, but has demonstrated intent of remaining a resident of this state by maintaining a domicile or voting registration in this state or similar evidence((s of nonrelinquishment)) of Washington state ((residence)) residency;

(3) Is not living in this state ((by reason of)) due to hospitalization or provision of similar care needs in another state resulting from transfer from a Washington state or federal health care or social service agency as long as the applicant has taken steps to maintain Washington state ((citizenship)) residency similar to subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-030 Eligibility—Military service. (1)

An applicant must have served in:

(a) ((In)) The armed forces of the United States government ((in any of its wars));

(i) For a minimum of ninety days((, some portion of which falls within the dates of WAC 484-20-030(2) below for which the applicant)) on active duty, and must have received a discharge under honorable conditions((:)); or

((b) In the armed forces of the United States government in any of its wars with)) (ii) If less than ninety days((, some portion of which falls within the dates in WAC 484-20-030(2) below during which the applicant received a)) on active duty, be in receipt of service-connected ((disability)) compensation, and was discharged under honorable conditions((, or));

((e) As a member of)) (b) The state militia (Washington national guard), for a minimum of ninety days on active duty and have been disabled in line of duty ((without regard to wartime service, and)) or have received a discharge under honorable conditions((:)); or

((d) As a member of)) (c) The Coast Guard, Merchant Marines, or other ((typically)) nonmilitary organization((s))

for a minimum of ninety days, on active duty when such service was recognized by the United States government as equivalent to service in the armed forces and (~~upon discharge, the veteran~~) have received a discharge under honorable conditions as evidenced by possession of a DD214, or similar document((s)) in accordance with WAC 484-20-015(2).

(2) ~~((The current inclusive dates referred to in subsection (1)(a) are~~

(a) ~~World War I—April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided that such veterans had at least one day of service between April 5, 1917, and November 12, 1918;~~

(b) ~~World War II—December 7, 1941, to December 31, 1946;~~

(c) ~~Korean War—June 27, 1950, to January 31, 1955;~~

(d) ~~Viet Nam—August 5, 1964, to May 7, 1975.~~

(e) ~~Such other or additional conflicts as recognized by the federal Department of Veterans' Affairs as wartime service.))~~ Admission priorities are granted in the following order:

(a) To veterans who meet established eligibility criteria for U.S. Department of Veterans Affairs health care benefits; followed by

(b) Spouses of veterans as described in WAC 484-20-055.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-035 Eligibility—Transfer of ((~~property~~)) resources. ((~~Transfer or assignment of real, or personal property of high intrinsic value within two years of the date of application without having received adequate consideration shall create the presumption that such assignment or transfer was for the purpose of rendering him/herself eligible with respect to the limitations of property resources in WAC 484-20-040. The burden of disproving such intent shall be upon the applicant. The director may waive this requirement for good cause. Personal property, irrespective of value, which has great sentimental value to the applicant shall not be subject to the provisions of this section.))~~ Eligibility for admission as related to transfer of resources is determined by application of medical assistance eligibility rules as defined in chapter 388-95 WAC.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-040 Eligibility—((~~Assets~~)) **Indigency.** (((1) Applicants for admission may retain any liquid assets up to a value of two thousand dollars, as of September 1, 1992. After that date, asset limits shall be computed at the beginning of the calendar year at a rate in accordance with advances in the Consumer Price Index established on annualized basis for the previous twelve months. If the applicant has assets in excess of established limits, (s)he may be admitted to a veterans' home provided:

(a) His/her assets and total expected annual income for the year following admission, less the established limit, and

divided by twelve, would not exceed actual monthly cost of care in the home;

(b) The applicant agrees to deposit such liquid assets in a safekeeping account held jointly by the home and the resident, such account to be held at the home of admission; and

(c) The applicant agrees to pay actual cost of care until such assets are reduced to an amount not to exceed the provisions of WAC 484-20-065(8).

(2) Applicants with real property in excess of the limits set forth in subsection (1) of this section may be admitted to the homes provided that:

(a) A good faith effort is made to sell the property at current market value;

(b) The proceeds of the sale of the property are deposited into a safekeeping account held jointly by the home and resident;

(c) The resident agrees to retroactive payment from the safekeeping account for actual cost of care from the time of admission to the time the funds are deposited into the safekeeping account;

(d) The resident agrees to allow withdrawal from the safekeeping account an amount equivalent to the difference between monthly income and actual cost of care until his/her assets are reduced to an amount not to exceed the provisions of WAC 484-20-065(8).

(3) In the event of admission under conditions in subsections (1) and (2) of this section where the applicant is discharged or dies, the provisions of WAC 484-20-065(8) apply.

(4) For good cause shown the director may authorize an exception to the limit in subsection (1) of this section.

(5) An applicant for membership in the colony of the state soldiers' home may not hold liquid assets in excess of that established in RCW 72.36.040. They are permitted to own real property provided such property is the domicile of the colony resident and is located within the school district of Orting.

(6) An applicant for admission to either home may own real property in excess of established limits provided such property is the domicile of the spouse and/or dependent children of the applicant.

(7) Real property owned by a couple where one is a resident of a state veterans' home and the other lives in the community shall, upon sale of the property, be subject to a division of the net proceeds whereby fifty percent is kept by the spouse living in the community and fifty percent by the spouse living in the home. Any resultant amount of assets held by the resident will be subject to the provisions of WAC 484-20-065(8). Exceptions to this distribution is allowed when the spouse living in the community purchases another residence of equal or greater value than the net proceeds of the sale in which (s)he expects to live. Where the spouse purchases a home of lesser value than the net proceeds from the sale of the first residence, the assets will be divided in accordance with the '50-50' stipulation above will apply.)) (1) An applicant may be admitted to a state veterans home provided his/her assets and total annual income for the year following admission, less resources and income retained pursuant to WAC 484-20-065 and divided by twelve, does not exceed actual monthly cost of care for the level of care for which he/she is making application.

(2) An applicant with assets and income in excess of the level described in subsection (1) of this section shall not be eligible for admission unless he/she:

(a) Agrees to sell any nonliquid resources considered nonexempt under chapter 388-95 WAC; and

(b) Agrees to pay at the private rate until such resources are reduced to an amount not to exceed the limits in WAC 484-20-065.

(3) An applicant for residency in the colony of the Washington soldiers home may not have income in excess of the federal poverty level. Colony residents may own real property provided such property is the domicile of the colony resident and is located in the Orting school district.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-045 Eligibility—Inability to support self/need for care. ~~To be eligible for admission an applicant must ((provide evidence of inability to support himself or herself. An applicant, age sixty five or older, provided his/her income and assets fall within limitations set forth in this chapter, is not required to provide further evidence of inability to support him/herself. If an applicant is less than age sixty five, (s)he)) be indigent as defined in WAC 484-20-040 and be in need of:~~

(1) Nursing facility care as described in chapter 388-88 WAC; or

(2) Domiciliary care; or

(3) Non-Medicaid nursing care; or

(4) Must have a long-term disability necessitating care, as determined by the applicant's physician, for an indeterminate period of such duration that it can reasonably be assumed that the applicant's condition will not allow him/her return to independent living. Applicants ((under age sixty-five who do not have a permanent)) who are not in need of nursing facility care, domiciliary care, or non-Medicaid nursing care or who do not have a long-term disability are eligible for admission only if their application ((contains specific)) includes a rehabilitation ((goals)) plan. Such applicants ((may)) shall be admitted for a specific period ((of time)) as defined by the rehabilitation plan. Any reductions or extensions of the ((admission)) period of residency are made ((at the discretion of the superintendent)) upon recommendation of the interdisciplinary patient care team and are based upon the resident's ability to meet goals outlined in the rehabilitation plan.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-055 Eligibility—Surviving spouse of veteran. The surviving spouse of a veteran may be admitted to ~~((the veterans'/soldiers'))~~ a state veterans home provided:

(1) The veteran was a state resident at the time of death ~~((or))~~ and would have been eligible for admission except for his/her income or resources; and

(2) The spouse:

(a) Meets the provisions of WAC 484-20-045; and

(b) Has not remarried a person who is not a state resident or who is not eligible for admission.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-060 Eligibility—Married couple. A married couple may be admitted to ~~((the homes))~~ a state veterans home provided:

(1) They both meet the requirements of WAC 484-20-045.

(2) They are legally married, and if not living together, are separated because of different health care needs.

(3) They have been married at least three years prior to application, or the spouse is personally eligible for admission.

NEW SECTION

WAC 484-20-061 Comprehensive care/service plan.

(1) Each resident shall receive a comprehensive health care and service needs assessment to include at least:

(a) Medically defined conditions and prior medical history;

(b) Medical status measurement;

(c) Physical and mental functional status;

(d) Sensory and physical impairments;

(e) Nutritional status and requirements;

(f) Special treatments or procedures;

(g) Mental and psychosocial status;

(h) Discharge potential;

(i) Dental condition;

(j) Activities potential;

(k) Rehabilitation plan;

(l) Cognitive status; and

(m) Drug therapy.

(2) Each resident shall have a comprehensive assessment:

(a) No later than fourteen days after the date of admission; and

(b) Promptly after any significant change in the resident's physical or mental condition; and

(c) In no case less than once every twelve months.

(3) Comprehensive care/service plans shall:

(a) Be based on the needs assessment and contain goals which meet all identified needs;

(b) Be developed by a multidisciplinary team in conjunction with the resident and the resident's appointed representative when appropriate; and

(c) Contain the resident's statement of consent to care and service goals. Consent may be provided by the resident's appointed representative when appropriate.

(4) Comprehensive care/service plans shall be routinely reviewed in multidisciplinary care conferences.

(a) Care conferences shall include the resident, their appointed representative when appropriate, any other individuals the resident or his/her appointed representative invites, and the appropriate care or therapy staff involved in carrying out the care/service plan with the resident.

(b) The initial care conference shall be held within twenty-one days of admission.

(c) Care conferences shall be held at least quarterly following the initial care conference, or whenever there is a significant change in the resident's care/service needs.

(d) Care/service options for meeting the resident's needs shall be presented and the resident provided the opportunity to choose options which meet their individual preferences.

NEW SECTION

WAC 484-20-062 Vocational rehabilitation programs—Eligibility, admission and discharge. The state veterans homes may implement and manage vocational rehabilitation programs designed to meet special health care/service needs of veterans.

(1) An applicant is eligible for admission to vocational rehabilitation programs **only** if he/she meets the requirements of chapter 72.36 RCW, WAC 484-20-025 through 484-20-060 and other admission criteria as defined in the specific vocational rehabilitation program.

(2) Program participation shall be defined by means of an individualized rehabilitation plan made between the prospective resident and the state or federal entity funding the rehabilitation program.

(3) Residents who fail to comply with participation goals as defined in the rehabilitation plan may be subject to discharge from both the rehabilitation program and the state veterans home. Residents who are being discharged for noncompliance with participation goals shall receive written notice in accordance with WAC 484-20-103.

(4) If a resident is discharged from a rehabilitation program his/her initial application shall be screened to determine eligibility for transfer to a nonrehabilitation section/program as described in chapter 72.36 RCW and this chapter.

NEW SECTION

WAC 484-20-063 Bed hold. (1) All residents receive written notice of the facility's bed hold policy; at the time of admission and at the time of transfer or discharge from the facility. In the event of an emergency transfer to an acute care facility, notice shall be given to either the designated representative or a responsible family member.

(2) Facility policies describe the length of time and the related cost of holding a bed during absences from the facility.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-068 (~~Duly constituted body~~) Resident council. (1) Each state veterans home shall have resident council consisting of ~~((the))~~ representatives elected by ~~((the home))~~ facility residents. ~~((The council is established to approve revolving fund disbursements and to communicate to the home's administration member needs and concerns.~~

~~(2) The resident council shall be composed of representatives from domiciliary, nursing care and, in the case of the soldiers' home, the colony.~~

~~(3) Representatives from the living units shall be elected by residents of that living unit or by all residents of the home.~~

~~(4) In the event of a vacancy on the resident council the resident council and the superintendent shall submit names to fill such vacancy subject to confirmation by a majority of the remaining elected representatives.~~

~~(5) The resident council and the superintendent or designee shall meet on a regularly scheduled basis. Agenda items may be submitted by the resident council, any home member, or the administration.~~

~~(6) The resident council may meet on its own at any time without notice to the administration.~~

~~(7) General meetings of the home residents will be held on a regular basis. Locations, times, and dates of such meetings will be published in advance to insure maximum attendance from the general resident population.))~~

(2) The resident council is to serve as a vehicle for residents to exercise their rights, express their views, and protect their interests by serving in an advisory capacity to the respective superintendents and to the director in all matters related to policy and operational decisions affecting resident care and life in the facility. The resident council shall be afforded the opportunity for input into the biennial budget making process and facility supplementary policies and procedures. The superintendent shall give due and proper consideration to such input.

(3) Each resident council shall consist of seven members elected from major living units as follows:

(a) Washington soldiers home and colony:

(i) Two members from the nursing facility;

(ii) One member from Roosevelt — nursing;

(iii) One member from Roosevelt — domiciliary;

(iv) One member from Betsy Ross — domiciliary;

(v) One member from the colony; and

(vi) One member at-large.

(b) Washington veterans home:

(i) One member from building 9 — nursing;

(ii) One member from building 10 — nursing;

(iii) One member from building 7 — nursing;

(iv) One member from building 4/5 — nursing;

(v) One member from building 6 — domiciliary;

(vi) One member from building 3 — domiciliary; and

(vii) One member from building 2 — domiciliary.

(4) Resident council members shall be elected by and represent the residents living in the building (living unit) in which he/she resides. Elections shall be held on the second Monday of January each year, following procedures outlined in facility policy.

(5) Resident council members shall serve two-year terms as follows:

(a) Washington soldiers home — members from Roosevelt — domiciliary, the colony and one member from the nursing facility shall be elected in even years and members from Roosevelt — nursing, Betsy Ross, at-large and the second member from the nursing facility shall be elected in odd years.

(b) Washington veterans home — members from buildings 10, 4/5, and 3 shall be elected in even years and members from buildings 9, 7, 6, and 2 shall be elected in odd years.

(6) In the event of a vacancy, the remaining resident council members and the superintendent shall recommend at least two replacements from among the residents living in the building/living unit where the vacancy exists. Appointment is made by a majority of the remaining council members. The appointed individual serves the remainder of the term and may run for reelection.

(7) Annually, following elections, each resident council shall elect a chair from among its members. The resident council chair shall call and preside at general assembly meetings and council meetings.

(8) Each resident council shall at least meet monthly. The resident council shall meet with the superintendent monthly and with the department director three times annually. The resident council may meet on it's own at any time without notice to the superintendent. General meetings of facility residents will be held on a regular basis. Locations, times and dates of such meetings will be published in advance to ensure maximum attendance.

(9) The resident council may appoint residents to serve on committees to advise various department heads on programs and services available to facility residents. Examples of such committees are:

(a) A food service advisory committee to meet with the facility's food manager;

(b) An activities committee to meet with the facility's activity director;

(c) A snack bar committee to meet with the assistant superintendent;

(d) A hospitality committee to meet with facility social work staff and to call on new residents and introduce them to other residents and to acquaint them with different services; the dining area, location of the laundry room and the resident council;

(e) A grievance/resident rights committee to assist other residents through the grievance process as requested and meet with the facility's superintendent or grievance investigator(s) to discuss resident rights or review the grievance process;

(f) An election committee to oversee annual resident council elections;

(g) Other committees as deemed appropriate by the resident council.

(10) Each resident council shall be provided the following:

(a) Assistance with the complaint resolution process through:

(i) Designated social work staff for problems and complaints related to nursing care; and

(ii) The assistant superintendent for problems and complaints related to administrative actions;

(b) Meeting space;

(c) Appropriate equipment and supplies; and

(d) Clerical support for minutes of all resident council meetings as requested.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-070 State veterans⁽²⁾ home (~~or soldiers' home revolving~~) benefit fund. (~~((1) The superintendent shall deposit all funds received from residents in accordance with provisions of WAC 484-20-065 into a revolving fund.~~)

~~(2) Disbursement from the revolving fund shall be for the welfare and benefit of the members.~~

~~(3) Disbursement from the revolving fund shall be on authorization of the superintendent or his duly authorized representative.~~

~~(4) A proposed budget shall be prepared for each fiscal year by the superintendent or a duly authorized representative, and the WDVA assistant director for administrative services, which shall delineate income by sources and allocations by category. This budget shall be presented to the resident council for modification and approval. Approval of the budget shall constitute authority for the superintendent or his duly authorized representative(s) to make disbursements from the revolving fund in accordance with the approved budget. Should the resident council and superintendent disagree over budget items, the resident council or superintendent may request a review by the agency director. In all such reviews, the decision of the director is final.~~

~~(5) Expenditure of the revolving funds shall be subject to the provisions of state law and state personnel merit system rules and any applicable provisions with organizations representing staff. The revolving fund budget must continue funding for existing civil service positions until such time as the director or his/her designee, either individually or pursuant to a good faith request from the majority of the resident council, reduces full-time funding of a position or positions from the revolving fund, approves, termination of position(s) through a reduction in force and all appeal rights of affected civil service employees have been exhausted.~~

~~(6) A quarterly report of the revolving fund activity shall be available for public inspection.)) (1) Each veterans home shall maintain a benefit fund into which all private donations, bequeaths, and gifts to the facility shall be deposited.~~

(2) The resident council shall participate in the identification of resident and facility needs for benefit fund solicitations.

(3) The resident council shall develop proposals for expenditures from the benefit fund. The minutes of the resident council meetings shall reflect the council's discussion and decision making process with regard to proposed expenditures. Facility fiscal staff may assist the resident council in the development of expenditure proposals as requested.

(4) Expenditures from the benefit fund shall be made as approved by the resident council and authorized by the superintendent. Whenever individuals or groups have made a donation, bequeath or gift to a state veterans home and have designated a specific purpose for such donation, bequeath or gift, the resident council and the superintendent shall take such designated purpose into account when approving expenditure of the funds. Should the resident council and the superintendent disagree over an expenditure approved by the resident council, the resident council or the superintendent may request a review by the director.

(5) Disbursements from the benefit fund shall be for the benefit and welfare of the residents of the respective state veterans home.

(6) The resident council shall receive quarterly or more frequently if requested a income and benefit fund expenditure report.

AMENDATORY SECTION (Amending Order 80-01, filed 7/17/80)

WAC 484-20-080 Annual declaration of income and ((assets)) resources. ((Each member will provide the superintendent with an annual statement reflecting all income and assets on a form prescribed by the department. When the member is authorized to contribute to the support of his/her dependents under WAC 484-20-065(4), the dependent will also be required to complete a statement of income and assets.)) (1) Each resident shall promptly provide the superintendent with a statement reflecting all income and resources:

(a) Annually, at such time as determined by department policy;

(b) Within fifteen days of any change in income; and

(c) Within fifteen days of receipt of any lump sum/backward payment of benefits. The department shall provide forms for reporting of income and resources.

(2) Each resident shall comply with any reporting requirements necessary to initiate/continue any benefits and/or pensions to which he/she is entitled.

(3) Reports shall be made at intervals and on forms prescribed by the entity paying the benefits and/or pension. Copies shall be submitted to the facility's administration for filing in the resident's administrative file:

(a) U.S. Department of Veterans Affairs benefits — as prescribed by the U.S. Department of Veterans Affairs.

(b) Social Security benefits — as prescribed by the Social Security Administration.

(c) Medicaid benefits — as prescribed by the department of social and health services.

(d) Other pensions and benefits — as prescribed by the entity paying the pension/benefit.

(4) When a resident is authorized to contribute to the support of a dependent under WAC 484-20-065, the dependent shall also be required to comply with any required reporting intervals, using the prescribed form(s).

(5) The veterans benefit specialist and business office staff at each facility shall be available to assist residents to complete and submit appropriate reports in a timely manner and to resolve any underpayment or overpayment of benefits.

(6) Failure to comply with all income and resource reporting requirements may result in overpayment or underpayment of cost of care. Underpayment of cost of care may be grounds to begin discharge proceedings in accordance with WAC 484-20-120. Notice of such administrative action shall be given in accordance with WAC 484-20-103.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-085 Residents' rights and ((rules of conduct)) facility rules. ((Each new home resident and new employee)) All residents and facility staff shall be furnished ((with the home's)) a copy of the facility's policies regarding resident rights and ((with)) a copy of chapter 484-20 WAC. Residents receive this information at the time of admission and within fifteen days of any change.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-087 Resident rights. ((1) Prior to or at the time of admission and annually thereafter, each resident shall be fully informed of his/her rights orally and in writing.

(2) The resident will be informed in a language (s)he understands regarding all rules and regulations covering resident conduct and responsibilities.

(3) Acknowledgement of receipt of these rights will be placed in the resident's medical and/or administrative record.

(4) The resident has a right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the facility. The department of veterans' affairs, and such facilities under the control of the department of veterans' affairs, will protect and promote the right of each resident. Each resident shall have the right to:

(a) Exercise his/her rights as a citizen of the United States;

(b) Be free of interference, coercion, discrimination, or reprisal in the exercise of his/her rights;

(c) Inspect and purchase photocopies of all records pertaining to the resident upon written request and forty-eight hours notice (excluding week ends) to the resident's facility;

(d) Be fully informed in language (s)he can understand of his/her total health status, including but not limited to, his/her medical condition;

(e) Refuse treatment and to refuse to participate in experimental research, provided that the resident is informed of therapeutic alternatives, and the consequences of refusing such nonexperimental treatment, including the option of discharge from the home when it is determined that the resident's or other resident's welfare cannot be guaranteed without such treatment(s).

(f) Know what services and goods which will be provided by the facility and which services and goods the resident must provide for him/herself.

(g) Manage his/her financial affairs without the requirement that (s)he deposit his/her personal funds with the home.

(h) Fully informed in advance about care and treatment and of treatment that may affect the resident's well being and, unless adjudged incompetent under the laws of the state, participate in planning care and treatment.

(i) Personal privacy and confidentiality of his/her personal and clinical records, which shall include but not necessarily be limited to: Accommodations; medical care; written and telephone communications; personal care; visits; meetings of family and resident groups.

(j) Voice grievances with respect to treatment or care that is, or fails to be furnished, without discrimination or reprisal.

(k) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents;

(l) Refuse to perform services for the facility, and if (s)he chooses to perform work, the home must document the need or desire to work in the care plan, specify the nature of the services performed, and whether services are voluntary or compensated by stipends established by the superintendent

for the work therapy program. The resident must agree to the work arrangements described in the care plan.

(m) To privacy in written communications, including: The right to send and receive mail promptly that is unopened; and access to stationery, postage, and writing instruments at the resident's expense.

(n) Immediate access to the resident by any representative of the Secretary of HEW; the federal Department of Veterans' Affairs; any representative of a state licensing agency; the resident's individual physician; the state long-term ombudsman.

(o) Regular access to the private use of a telephone, provided that the costs entailed from such use shall be borne by the resident.

(p) Retain and use personal possessions including appropriate clothing and some furnishings, as space permits, unless to do so would infringe upon the rights or health and safety of other residents.

(q) Self-administer drugs unless the home's patient care team has determined that this practice is unsafe.

(r) Examine the results of any federal or state inspection of the facility, along with any plan(s) for correction.

(5) In the event that a resident is judged financially incompetent under federal laws or mentally incompetent under the laws of the state by a court of competent jurisdiction, his/her rights may be exercised by a representative appointed under federal law or a guardian appointed under state law.

(6) Each resident shall receive a written description of resident rights to include a description of the manner of protecting personal funds and procedures established to resolve resident grievances or to initiate investigation of any reports of resident abuse, neglect, or misappropriation of resident property in the facility.

(7) The facility will inform each resident of the name, specialty, and way of contacting his/her attending physician.

(8) Except in a medical emergency or when the resident is incompetent, the facility will consult with the resident and notify the resident's physician, legal representative, or interested family member within twenty-four hours when there is:

- (a) An accident resulting in injury to the resident;
- (b) A significant change in the resident's physical, mental, or psychosocial status;
- (c) A need to significantly alter treatment;
- (d) A decision to transfer or discharge the resident from the facility.

(9) The facility will also promptly notify the resident, appointed representative/guardian, or designated family member when there is:

- (a) A change in room or roommate assignment;
- (b) A change in the resident's rights under federal or state law or regulations.

(10) The facility records and periodically updates the address and phone number of the resident's appointed representative or interested family member.

(11) The facility will establish and maintain a system that assures a full, complete, and separate accounting, according to generally accepted accounting principals, of each resident's personal funds entrusted to the home on the resident's behalf. The system must preclude any commingling of resident funds with facility funds or with the funds

of any other resident. Individual financial records must be available on request by the resident or his/her appointed representative.

(12) The facility will provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(13) The facility will allow representatives of the state ombudsman to examine the resident's records with the written permission of the resident or the resident's appointed representative/guardian, so long as such access is consistent with state law.)) Residents of a state veterans home have the right to a dignified existence, self-determination and communication with and access to persons and services inside and outside the facility. The state veterans homes shall protect and promote the rights of each resident, including each of the following:

(1) Exercise of rights.

(a) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(b) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights.

(c) In the case of a resident adjudged incompetent under the laws of the state by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed under state law to act on the resident's behalf.

(d) In the case of a resident who has not been adjudged incompetent by the state court, any legal-surrogate designated in accordance with state law may exercise the resident's rights to the extent provided by state law.

(2) Notice of rights and services.

(a) The facility shall inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. Such notification must be made prior to or upon admission and during the resident's stay. Receipt of such information, and any amendments to it shall be acknowledged in writing by the person(s) receiving it.

(b) The resident or his or her legal representative has the right:

(i) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and

(ii) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard, photocopies of the records or any portions of them upon request and two working days advance notice to the facility.

(c) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition.

(d) The resident has the right to refuse treatment, and to refuse to participate in experimental research.

(e) The facility shall:

(i) Inform each resident who is entitled to Medicaid benefits, in writing, at the time of admission to the nursing facility or, when the resident becomes eligible for Medicaid of:

(A) The items and services that are included in nursing facility services under the state plan and for which the resident may not be charged;

(B) Those other items and services that the facility offers and for which the resident may be charged, and the amount of charges for those services; and

(ii) Inform each resident when changes are made to the items and services specified in (e)(i)(A) and (B) of this subsection.

(f) The facility shall inform each resident before, or at the time of admission, and periodically during the resident's stay, of services available in the facility and of charges for those services, including any charges for services not covered under Medicaid or the facility's daily rate.

(g) The facility shall furnish a written description of legal rights which includes:

(i) A description of the manner of protecting personal funds, under subsection (3) of this section;

(ii) A description of the requirements and procedures for establishing eligibility for Medicaid, including the right to request an assessment which determines the extent of a couple's nonexempt resources at the time of admission and attributes to the community spouse an equitable share of resources which cannot be considered available for payment toward the cost of the resident's care in his or her process of spending down to Medicaid eligibility levels;

(iii) A posting of names, addresses, and telephone numbers of all pertinent state client advocacy groups such as the state survey and certification agency and the state ombudsman program; and

(iv) A statement that the resident may file a complaint with the state survey and certification agency concerning resident abuse, neglect, and misappropriation of resident property in the facility.

(h) The facility shall inform each resident of the name, specialty, and way of contacting the physician responsible for his or her care.

(i) The facility shall prominently display in the facility written information and provide to residents and applicants for admission oral and written information about how to apply for and use of Medicare and Medicaid benefits, and how to receive refunds for previous payments covered by such benefits.

(j) Notification of changes.

(i) A facility shall immediately inform the resident; consult with the resident's physician; and if known, notify the resident's legal representative or an interested family member when there is:

(A) An accident involving the resident which results in injury and has the potential for requiring physician intervention;

(B) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications);

(C) A need to alter treatment significantly (i.e., a need to discontinue an existing form of treatment due to adverse consequences, or to commence a new form of treatment); or

(D) A decision to transfer or discharge the resident from the facility as specified in WAC 484-20-120.

(ii) The facility shall also promptly notify the resident and, if known, the resident's legal representative or interested family member when there is:

(A) A change in room or roommate assignment; or

(B) A change in resident rights under federal or state law or regulations.

(iii) The facility shall record and periodically update the address and phone number of the resident's legal representative or interested family member.

(3) Protection of resident funds.

(a) The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

(b) Management of personal funds. Upon written authorization of a resident, the facility shall hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as specified in (c) through (h) of this subsection.

(c) Deposit of funds.

(i) The facility shall deposit any residents' personal funds in excess of fifty dollars in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts, and that credits all interest earned on resident's funds to that account. (In pooled accounts, there must be a separate accounting for each resident's share.)

(ii) The facility may maintain a resident's personal funds that do not exceed fifty dollars in a noninterest bearing account, an interest-bearing account, or petty cash fund.

(d) The facility shall establish and maintain a system that assures a full and complete and separate accounting, according to generally accepted accounting principles, of each resident's personal funds entrusted to the facility on the resident's behalf.

(i) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

(ii) The individual financial records must be available through quarterly statements on request to the resident or his or her legal representative.

(e) The facility shall notify each resident that receives Medicaid benefits:

(i) When the amount in the resident's account reaches two hundred dollars less than the established resource limit for one person; and

(ii) That, if the amount in the account, in addition to the value of the resident's other nonexempt resources, reaches the resource limit for one person, the resident may lose eligibility for Medicaid.

(f) Upon the death of a resident with a personal fund deposited with the facility, the facility must convey within thirty days the resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate.

(g) The facility may not impose a charge against the personal funds of a resident for any item or service for which payment is made under Medicaid, Medicare or the U.S. Department of Veterans Affairs.

(4) Free choice. The resident has the right to:

(a) Choose a personal attending physician;

(b) Be fully informed in advance about care and treatment and of any changes in that care or treatment that may affect the resident's well-being; and

(c) Unless adjudged incompetent or otherwise found to be incapacitated under the laws of the state, participate in planning care and treatment or changes in care and treatment.

(5) Privacy and confidentiality. The resident has the right to personal privacy and confidentiality of his or her personal and clinical records.

(a) Personal privacy includes accommodations, medical treatment, written and telephone communications, personal care, visits, and meetings of family and resident groups, but this does not require the facility to provide a private room for each resident;

(b) Except as provided in (c) of this subsection, the resident may approve or refuse the release of personal and clinical records to any individual outside the facility;

(c) The resident's right to refuse release of personal and clinical records does not apply when:

(i) The resident is transferred to another health care institution; or

(ii) Record release is required by law.

(6) Grievances. A resident has the right to:

(a) Voice grievance without discrimination or reprisal. Such grievances include those with respect to treatment which has been furnished as well as that which has not been furnished; and

(b) Prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents.

(7) Examination of survey results. A resident has the right to:

(a) Examine the results of the most recent survey of the facility conducted by federal or state surveyors and any plan of correction in effect with respect to the facility. The results must be made available for examination by the facility in a place readily accessible to residents; and

(b) Receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies.

(8) Work. The resident has the right to:

(a) Refuse to perform services for the facility;

(b) Perform services for the facility, if he or she chooses, when:

(i) The facility has documented the need or desire for work in the plan of care;

(ii) The plan specifies the nature of the services performed and whether the services are voluntary or paid; and

(iii) The resident agrees to the work arrangement described in the plan of care.

(9) Mail. The resident has the right to privacy in written communications, including the right to:

(a) Send and promptly receive mail that is unopened; and

(b) Have access to stationery, postage, and writing implements at the resident's own expense.

(10) Access and visitation rights.

(a) The resident has the right and the facility shall provide immediate access to any resident by the following:

(i) Any representative from the federal or state agency administering Medicaid or U.S. Department of Veterans Affairs health care programs;

(ii) The resident's individual physician;

(iii) The state long term care ombudsman;

(iv) Subject to the resident's right to deny or withdraw consent at any time, immediate family or other relatives of the resident; and

(v) Subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, others who are visiting with consent of the resident.

(b) The facility shall provide reasonable access to any resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(c) The facility shall allow representatives of the state ombudsman, described in (a)(iv) of this subsection, to examine a resident's clinical records with the written permission of the resident or the resident's legal representative, and consistent with state law.

(11) Telephone. The resident has the right to have reasonable access to the use of a telephone where calls can be made without being overheard.

(12) Personal property. The resident has the right to retain and use personal possessions, including some furnishings, and appropriate clothing, as space permits, unless to do so would infringe upon the rights or health and safety of other residents. Residents receive instructions to leave valuables in the care of family members or to secure valuables in locked drawers provided in their rooms or the facility safe and to restrict the amount of cash they carry on their person.

(13) Married couples. The resident has the right to share a room with his or her spouse when married residents live in the same facility and both spouses consent to the arrangement.

(14) Self-administration of drugs. An individual resident may self-administer drugs if the interdisciplinary care team has determined that this practice is safe.

(15) Refusal of certain transfers.

(a) An individual has the right to refuse a transfer to another room within the facility, if the purpose of the transfer is not supported by health care needs and the facility's ability to provide necessary health care and services.

(b) A resident's exercise of the right to refuse transfer under (a) of this subsection does not affect the individual's eligibility or entitlement to Medicaid benefits.

(16) Transfer and discharge. The facility shall permit each resident to remain in the facility and not transfer or discharge the resident from the facility except under the provisions of WAC 484-20-120.

(17) Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(18) Abuse. The resident has the right to be free from verbal, sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion.

(19) Quality of life. The facility shall care for its residents in a manner and in an environment that promotes maintenance or enhancement of each resident's quality of life.

(a) Dignity. The facility shall promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality.

(b) Self-determination and participation. The resident has the right to:

(i) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;

(ii) Interact with members of the community both inside and outside the facility; and

(iii) Make choices about aspects of his or her life in the facility that are significant to the resident.

(c) Participation in resident and family groups.

(i) A resident has the right to organize and participate in resident groups in the facility;

(ii) A resident's family has the right to meet in the facility with the families of other residents in the facility.

(d) Participation in other activities. A resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility.

(e) Accommodation of needs. A resident has the right to reside and receive services in the facility with reasonable accommodation of individual needs and preferences, except when the health or safety of the individual or other residents would be endangered.

(f) Activities. The facility shall provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well-being of each resident.

(g) Social services. The facility shall provide medically-related social services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident.

(h) Environment. The facility shall provide:

(i) A safe, clean, comfortable, and homelike environment, allowing the resident to use his or her personal belongings to the extent possible;

(ii) Housekeeping and maintenance service necessary to maintain a sanitary, orderly, and comfortable interior;

(iii) Clean bed and bath linens that are in good condition;

(iv) Private closet space in each resident room;

(v) Adequate and comfortable lighting levels in all areas;

(vi) Comfortable and safe temperature levels; and

(vii) For the maintenance of comfortable sound levels.

(20) Notice of any administrative action taken pursuant to this section shall be given in accordance with WAC 484-20-103.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-089 Washington Soldiers⁽²⁾ Home Colony—Rights and responsibilities. (1) Individuals eligible for the colony program, hereinafter called "colony residents," shall have access to the following programs available to ~~((on-grounds))~~ residents of the Washington soldiers⁽²⁾ home and subject to certain restrictions as noted:

(a) Participation in the ~~((home's-on-grounds))~~ facility's activities programs. Participation in off-grounds activities ~~((is also permitted except that))~~ may require a co-payment ~~((may be established by the superintendent))~~ to defray a portion of the costs of the activity.

(b) Transportation to medical appointments, provided that such transportation does not exceed those transportation services provided to ~~((on-grounds))~~ residents of the Washington soldiers⁽²⁾ home. ~~((In the event that public transportation becomes available,))~~ The superintendent may require a co-payment for ~~((home))~~ transportation ~~((purposes not to exceed fifty percent of the prevailing public transportation costs))~~ provided by the facility.

(c) Distribution of medications from the ~~((home's))~~ facility's pharmacy to the extent that colony residents cannot obtain such medications through private, state and/or federal medical insurance programs for which the colony ~~((member))~~ resident is eligible. In the event that the colony ~~((member))~~ resident is ineligible for such medical insurance programs, the superintendent may require that a ~~((co-charge))~~ co-payment be paid by the colony ~~((member))~~ resident.

(d) In-patient nursing care when authorized by ~~((home))~~ facility medical staff and when such care is not otherwise available through private, state, or federal government medical insurance programs for which the colony resident is eligible. When admitted to a ~~((home))~~ facility nursing care unit and the in-patient stays exceed fourteen calendar days per year, the superintendent may require that the colony resident make a co-payment for nursing care services. Such co-payments shall be a set per diem amount as determined by ~~((WDVA))~~ department policy except as waived by the director.

(e) Admission to ~~((the soldiers' or))~~ a state veterans⁽²⁾ home as a long-term resident. Colony residents are required to complete a standard application for admission ~~((except that))~~. They shall be placed at the top of any existing waiting list for the type of care they require unless the date of their admission to the colony is later than another applicant on the same waiting list. In such cases, the colony resident's place on the waiting list shall be preceded only by ~~((the application or applications for admission))~~ any applicant(s) whose application was approved on a date preceding the colony ~~((member's))~~ resident's.

(f) Cash stipends for food allowances and clothing, as determined by the director and allocated by the legislature.

(g) ~~((Burial in the Washington soldiers' home cemetery in such a manner as determined prudent by the superintendent and established by department policy.))~~ If a resident has stated he/she wishes to be buried in the facility cemetery, burial will be in accordance with WAC 484-20-145.

(2) Colony residents ~~((are required to))~~ shall:

(a) Promptly provide the superintendent with ~~((an annual))~~ a statement reflecting all income and ~~((assets at such a time as determined by department policy and on a form prescribed by the department.~~

~~((b) Report any changes in income or assets within a reasonable period, not to exceed thirty days, after such changes.~~

~~((c))~~ resources:

~~((i))~~ Annually, at such time as determined by department policy;

~~((ii))~~ Within fifteen days of any change in income or resources;

~~((b))~~ Comply with rules of conduct as outlined in WAC 484-20-090 ~~((except for those which reasonably apply exclusively to on-grounds residents of the soldiers' home))~~

when participating in programs ~~((on the grounds of))~~ sponsored by the Washington soldiers(±) home.

(d) Maximize all benefits and entitlements for which they are eligible, utilizing services, and/or obtaining goods available through such local, state, or federal programs prior to utilizing services or obtaining goods through the ~~((soldiers' home))~~ facility.

(e) Failure to comply with any subsection of WAC 484-20-089 may result in denial of benefits received under this section. Notice of such denial will be given in accordance with WAC 484-20-103.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-090 ((Rules of conduct.)) Facility rules. Residents of the state veterans homes are ~~((required))~~ expected to comply with the following facility rules ~~((of conduct))~~. The following facility rules ~~((of conduct))~~ apply to all residents ~~((of the homes.))~~:

(1) Health and safety rules.

(a) Emergency evacuation. Any time a fire or alarm is sounded, domiciliary residents must immediately evacuate the building and report to the designated evacuation area. Residents may not enter the evacuated building until designated staff indicate all is clear. Nursing care unit residents must follow the instructions of the nursing staff.

(b) Community living skills. ~~((Resident personal hygiene and community living skills))~~ The condition of residents living quarters must meet ((established)) existing fire, safety and health-sanitation codes. ~~((Each))~~ Residents shall accomplish and/or assist with maintaining their ((personal hygiene and)) living quarters as defined in their ((patient)) comprehensive care/service plan. Vacated rooms shall be left in a clean condition.

(c) Electrical appliances. Only low wattage household type electrical appliances such as television sets, electric clocks, electric razors, fans of 150 watts or less with acceptable finger guards, small refrigerators rated at not more than 1.5 amps and approved by the facility electrician, radios, audio and/or video recorders (VCRs), and disc playing machines may be used in resident's rooms. Use of any other ~~((electric))~~ electrical equipment requires the written approval of the superintendent.

(d) Repair of rooms. Residents shall not alter or repair their living quarters or other common use areas. This includes but is not limited to walls (e.g., for hanging pictures), other flat surfaces, electrical systems, television/cable hook-ups, phone hook-ups, heating systems, and plumbing. All such alterations~~((#))~~ and/or repairs shall be accomplished by ~~((home))~~ facility staff. Requests for alterations~~((#))~~ and/or repairs shall be made ~~((through staff designated by the superintendent or his/her alternate))~~ to the facility plant manager.

(e) Alcohol - drugs. Possession or use of intoxicating beverages, narcotics, or controlled substances on the grounds of ~~((the Washington))~~ a state veterans(±) home((±)) or during off-grounds activities sponsored by the ~~((home(±)))~~ facility without a physician's written prescription is prohibited. Drugs which were prescribed by a physician but which are no longer used by the resident to whom they were issued, shall be turned in to the ~~((home))~~ facility's pharmacy.

(f) Weapons. Possession of firearms, ammunition, explosive or dangerous weapons is prohibited.

(g) Animals. Possession or feeding of animals on ~~((home grounds))~~ facility property is prohibited except when specifically sanctioned by the superintendent.

(h) Smoking. Residents may not smoke in bed or in any area in the facility where no smoking signs are posted.

(2) General facility rules ~~((of conduct))~~.

(a) Visiting hours. Normal visiting hours for guests are 8:00 a.m. to 10:00 p.m.

(b) Program listening. Radios, TVs, and tape recording-playing devices such as video tape recorders (VCRs) and cassette players may be used in resident's rooms. Volume levels of such equipment must be kept at a level that does not disturb others. Between the hours of 10:00 p.m. and 7:00 a.m., volume on such equipment must be reduced to match reduced noise levels in the general surroundings so that others will not be disturbed. The use of headphones~~((while not required,))~~ is strongly encouraged for those who wish to use such equipment after 10:00 p.m.

(c) Leave. Residents leaving the grounds for any purpose must sign out at designated locations ~~((in such a manner as prescribed by the home administration))~~. Upon returning, the resident must sign in again. After returning from overnight pass ~~((or))~~ furlough or social leave, the resident must ~~((stay in his/her room))~~ remain on the grounds overnight before permission to go on an additional overnight pass ~~((or))~~ furlough or social leave can be granted, except in the case of emergency. Leaving the grounds without proper authorization, or failure to return from overnight pass ~~((or))~~ furlough or social leave at the prescribed time without obtaining permission for an extension, ~~((makes the resident absent without official leave))~~ may result in the resident being discharged in accordance with WAC 484-20-120. Residents being admitted to the ~~((home))~~ facility must remain ~~((in their rooms))~~ on the grounds overnight before overnight pass or leave privileges may be exercised unless an exception is granted by the ~~((administration))~~ superintendent.

(d) Respect for property. No person may deface or destroy walls, buildings, trees, shrubbery, fences, grounds, or any other property or possessions belonging to the state of Washington or to any other person. Appropriation of the property of another person, corporate entity or the state of Washington without permission is also prohibited. Residents are required to reimburse the ~~((home))~~ facility for theft and intentional or negligent injury to state property.

(e) Vehicle registration. Vehicles kept on ~~((home grounds))~~ facility property must be registered at least annually with the facility administration ~~((of the home))~~. Residents who drive on the ~~((home grounds))~~ facility property must: Possess a valid Washington state driver's license; provide proof of ownership and/or registration; and, show proof of at least minimal insurance as required by Washington state financial responsibility law. The requirement to register applies to vehicles owned by residents, owned by another and registered in the name of the resident, and/or any vehicle regardless of ownership that is regularly in the possession of the resident. Vehicles must have current license tags and they must display the ~~((home))~~ facility identification sticker. All traffic and parking control signs

must be obeyed. ~~((Residents must comply with the provisions of the Washington state financial responsibility law.))~~

(f) Personal conduct between residents and ~~((staff))~~ others. Residents will conduct themselves in an orderly, courteous, and cooperative manner at all times. Obscene, sexually or racially demeaning, threatening language, or behavior, or physically assaultive behavior, directed at another person, whether on the grounds or off the grounds during a ~~((home))~~ facility-sponsored activity, will be considered a violation of this rule. ~~((Residents will obey all valid instructions directed at them by staff acting in an official capacity.))~~

~~((g) Attire of home residents. Residents must dress in a manner so as not to reasonably offend the sensitivity of others.))~~

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-095 Supplementary policies and procedures. The superintendent of each ~~((home))~~ facility shall establish supplementary policies and procedures consistent with the substance and intent of the rules in this chapter and existing federal and state statutes and standards. ~~((The resident council shall be afforded the opportunity for input into such supplementary policies and procedures. The superintendent will give due and proper consideration to such input.))~~

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-100 Violation—Investigation. (1) Reports of possible ~~((rule))~~ violations of facility rules shall be investigated by the superintendent or his/her designee. ~~((The superintendent charging a violation of the rules or other misconduct by a resident shall have the burden of establishing the violation by clear, cogent and convincing evidence.))~~ The investigation shall include a referral to the patient care planning team to rule out health related causes.

(2) The patient care planning team shall document actions taken to review the rules violations with the resident and any resulting modifications to the care plan.

(3) Should the investigation reveal that the resident has violated facility rules on several occasions and has failed to follow through with recommended treatment, counseling, and/or corrective actions, as documented in the clinical record, the investigation shall be forwarded to the superintendent for review and determination of appropriate administrative action. Any administrative action proposed pursuant to this section shall be given in accordance with WAC 484-20-103.

NEW SECTION

WAC 484-20-103 Administrative action, notice of. The facility shall provide residents and if known, a family member or legal representative of the resident with appropriate notice of any proposed administrative action, as defined in RCW 34.05.010(3) and these rules. Such notice shall be in writing at least thirty days before the effective date of the proposed action (or as soon as practicable in the case of

discharge under the provisions of WAC 484-20-120(5)) and shall state:

- (1) The proposed action;
- (2) The reason for the action, to include a summary of the relevant facts and the RCW and/or WAC authority for the proposed action;
- (3) The effective date of the proposed action;
- (4) (For transfer or discharge actions) - the location to which the resident is to be transferred or discharged;
- (5) A statement that the resident has the right to appeal the proposed action under the provisions of WAC 484-20-105;
- (6) Information on how to contact client advocacy groups such as the state survey and certification agency or the state ombudsman program;
- (7) Information on how to file an appeal; and
- (8) A statement that proposed action shall be deferred (in accordance with WAC 484-20-105 (2)(b)) pending resolution of the appeal.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-105 ((Penalties.)) Dispute settlement. ~~((The superintendent may impose penalties for the violation of rules of conduct, for gross misconduct or for willful failure to comply with any responsibility placed upon them by WAC 484-20-065; such penalties may include:~~

~~(1) Restricting the resident to the home grounds for a maximum of sixty days when determined appropriate by the superintendent, a reasonable requirement for signing in at designated intervals may be imposed during a period of restriction;~~

~~(2) An enforced furlough to a maximum of sixty days;~~
~~(3) A combination of penalties in subsections (1) and (2) of this section provided the combined total time does not exceed sixty days;~~

~~(4) Transfer to another DVA home or colony;~~
~~(5) Discharge from a home pursuant to WAC 484-20-120.))~~ Residents have two avenues of redress for administrative actions.

(1) Informal settlement. Informal settlement of matters that may make more elaborate proceedings unnecessary under this chapter is strongly encouraged. Use of the informal settlement process does not preclude a resident from requesting an adjudicative proceeding at any time during the informal settlement process.

(a) A request for an informal settlement review of an administrative action must be made in writing to the assistant superintendent, not later than twenty days following receipt of the written notice of an administrative action by the facility.

(b) Within ten days of receipt of the request for review, the assistant superintendent or his/her designee shall review the administrative action and make a recommendation to the superintendent for resolution.

(c) The superintendent shall inform the resident of his/her decision to uphold, modify or reverse the administrative action. Notification of the superintendent's decision will be given in accordance with WAC 484-20-103 and in all cases (except discharge from the facility), the superintendent's decision shall be final; except in the case of

a request to continue the matter through an adjudicative proceeding.

(d) In the case of discharge from the facility, the superintendent's decision shall be reviewed by the director for final determination of the appropriate resolution. In all cases of discharge from the facility, the director's decision shall be final; except in the case of a request to continue the matter through an adjudicative proceeding.

(2) Adjudicative proceeding. An adjudicative proceeding is the formal avenue of redress which a resident may request to review an administrative action, as defined in RCW 34.05.010(3), taken by the facility.

(a) An adjudicative proceeding may be requested by forwarding a written request to the superintendent, not later than twenty days following receipt of the written notice of an administrative action or a final decision under the informal settlement provisions of this section. All such requests shall:

(i) Include a statement of whether the resident is represented and, if so, the name and address of the representative;

(ii) Be signed by the resident or his/her legal representative; and

(iii) Be forwarded immediately to the office of administrative hearings for scheduling of an administrative hearing pursuant to chapters 34.05 and 34.12 RCW and chapter 10-08 WAC.

(b) Any administrative action (except discharge under WAC 484-20-120(5)) imposed pursuant to this chapter shall be deferred until a final administrative resolution is reached in the dispute settlement process.

(c) Administrative hearings pursuant to this subsection shall be conducted in the facility in which the client resides; except in cases of discharge under WAC 484-20-120(5), the hearing shall be conducted in a location which is jointly agreed upon by both parties.

(d) Initial orders issued by the administrative law judge shall become final thirty days following issuance, unless the complaining party or the facility appeal the order. In the case of an appeal, the director or his/her designee, serving as the department's reviewing officer, shall conduct a review pursuant to chapter 34.05 RCW and issue a final order in accordance with WAC 484-20-103 in the matter under consideration.

NEW SECTION

WAC 484-20-111 Grievance procedure. (1) Department grievance procedures shall consist of an optional informal discussion process and a formal process.

(a) Any resident, his or her appointed representative, family member or advocate may file a grievance or complaint related in any way to the facility, another resident or a facility staff.

(b) A resident shall not be subject to discipline or retaliation for participating in any manner in the facility's grievance process.

(c) Residents are not prohibited from requesting an adjudicative proceeding or from filing a complaint with any pertinent State client advocacy group such as the state survey and certifications agency or the state ombudsman program at any time during the grievance resolution process.

(2) Informal discussion process. Residents are encouraged to attempt to resolve problems or complaints through an informal discussion with individuals who are involved. A grievance investigator shall facilitate such a discussion upon request.

(3) Formal grievance process. The formal grievance process shall consist of:

(a) Filing. Residents who have a grievance or complaint may submit a complaint either orally or in writing. Any oral grievance or complaint shall be reduced to writing by the staff receiving the complaint.

(i) Grievances must be filed within fifteen days of the event or discovery of the event being grieved. This deadline may be extended for good cause at the discretion of the assistant superintendent.

(ii) Grievance forms must be available and located in easily accessed locations throughout the facility. Completed grievance forms must be signed by the resident or individual filing the grievance on behalf of the resident and forwarded to the assistant superintendent for investigation.

(iii) At any point in the grievance process, a resident may choose to have another individual advocate on his/her behalf and/or accompany him/her to any investigative interviews.

(b) Investigation. The assistant superintendent shall investigate or appoint an appropriate staff to investigate all grievances received.

(i) The grievance investigation shall be completed within five days of receipt of the written grievance by the assistant superintendent.

(ii) The resident and/or person filing the grievance on behalf of the resident shall be informed in writing (in accordance with WAC 484-20-103) of the results of the investigation and the actions that will be taken to correct any identified problems.

(iii) The grievance investigation shall be conducted in such a manner as to maintain the confidentiality of the resident. Should the resident request assistance of an outside resident advocate, access to the resident's clinical or personal files shall be granted only with the written authorization from the resident.

(4) Should the resident not be satisfied with the results of the investigation or the recommended actions, he/she may request a review by the superintendent.

(a) Such a request shall be made in writing and submitted within ten days of receipt of the notice of the results of the grievance investigation.

(b) The superintendent shall consider all available information related to the grievance and issue a written decision (in accordance with WAC 484-20-103) on the matter within fifteen days of receipt of the review request.

(c) The superintendent's decision is final; except when the resident chooses to access the dispute settlement process allowed in WAC 484-20-105.

(5) Upon admission, each resident or his/her appointed representative shall receive oral and written information related to the facility's grievance procedure. Posters informing residents of the facility's grievance procedure and listing names and phone numbers of facility staff and outside resident advocates who are available to assist with complaint resolution shall be placed in locations within each facility where they are easily visible to residents.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-115 Furlough—Non-Medicaid funded program residents. ~~(1) ((Furlough time will be earned by the resident at the rate of two days per month of residence.~~

~~(2) The superintendent may grant a furlough~~

~~(a) At the request of the resident.~~

~~The)) All furloughs must be approved by the resident's attending physician.~~

~~(2) Authorized absences of ninety-six hours or less are not considered furloughs.~~

~~(3) A furlough may not exceed ((thirty)) fifteen days at any one time except in the case of an emergency or extenuating circumstances.~~

~~((b) As a disciplinary measure as provided in WAC 484-20-105.~~

~~(3) Authorized absences of ninety-six hours or less shall not be considered furloughs.))~~

~~(4) ((The superintendent or his designee may authorize furlough in advance of accrual only in the case of emergency or extenuating circumstances.)) Furlough time may not exceed thirty days in any twelve-month period without a review for continued need for care and services.~~

NEW SECTION

WAC 484-20-116 Social leave—Medicaid funded program residents. (1) All social leave must be approved by the resident's attending physician.

(2) Social leave for:

(a) Periods over twenty-four hours, require notice be given to the appropriate CSO (community service office).

(b) Periods over thirty-six hours, require approval of the resident care plan by the appropriate CSO.

(c) Periods exceeding seven days, require written permission from the appropriate CSO.

(d) Periods in excess of eighteen days per year require written approval from the appropriate CSO office. Approval must be received prior to departure from the facility.

(3) Facility staff shall assist residents in obtaining CSO approval for social leave.

NEW SECTION

WAC 484-20-117 Rehabilitation leave. Rehabilitation leave is granted for the sole purpose of permitting a resident the opportunity to reestablish residency in a community setting.

(1) Rehabilitation leave is granted in thirty-day increments not to exceed a total of ninety days.

(a) At the conclusion of each thirty-day increment, the resident shall contact the facility and either extend the rehabilitation leave for an additional thirty days or make arrangements to return to the facility.

(b) At the conclusion of the full ninety days, the resident shall request a discharge from the facility.

(2) To be eligible for rehabilitation leave, the resident shall comply with all of the following:

(a) Participate in counseling with social work and/or vocational rehabilitation staff and rehabilitation leave planning.

(b) Participate in counseling with family members if the resident shall be residing with family.

(c) Show proof of having established residency in the community through a rental agreement, a receipt showing prepayment for living quarters or evidence of other appropriate living arrangements.

(d) Demonstrate ability to manage financial resources and meet living expenses.

(e) Sign an agreement stipulating a payment schedule for any existing debts to the facility.

(f) Have written recommendations from the attending physician and social services staff; evaluating the potential success of the rehabilitation leave plan.

(3) A resident on rehabilitation leave may return at any time during the leave period; however immediate return shall be dependent upon the availability of a bed in the appropriate level of care. If a bed is not immediately available, the resident shall be placed at the top of the appropriate waiting list and shall be readmitted as soon as a bed is available.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-120 Transfer, discharge and denial of colony benefits. ~~((1) A resident may receive an honorable discharge from the home when:~~

~~(a) The member so requests and has liquidated all outstanding indebtedness to the home;~~

~~(b) The resident has sufficient financial resources to support community living;~~

~~(c) The resident no longer needs the care and services of the home, regardless of financial ability;~~

~~(d) The care requirements of the resident cannot be provided by the home;~~

~~(2) A resident may receive a disciplinary discharge:~~

~~(a) For failure to comply with the provisions of WAC 484-20-065, Use of resident's income and assets;~~

~~(b) For conviction of a felony or gross misdemeanor;~~

~~(c) For repeated violation of the general rules of conduct, WAC 484-20-090;~~

~~(d) For gross misconduct when such conduct poses an immediate danger to the safety of other residents and/or staff~~

~~(e) When a resident has been absent without leave for a period in excess of fifteen days;~~

~~(f) As the result of the director's final decision following a fair hearing which upholds the original findings and penalties imposed upon a resident in accordance with the provisions of WAC 484-20-100 and 484-20-105.~~

~~(3) A provisional honorable discharge may be given by a home superintendent to a resident with outstanding indebtedness to the home who agrees to liquidate the outstanding amount within a mutually agreed upon time period. Such provisionary discharges shall be changed by the superintendent to a disciplinary discharge upon the resident's failure to fulfill the requirements of the agreement to liquidate indebtedness.~~

~~(4) Any discharge from the home shall be reduced to writing. If the discharge is disciplinary, it shall state the reasons for the action. All discharges shall be subject to the provisions of WAC 484-20-110.)) (1) Residents of state veterans homes shall not be transferred or discharged unless:~~

~~(a) They request it; or~~

~~(b) It is necessary for the resident's welfare and the facility can no longer meet his/her health care needs; or~~

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

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

(e) The resident has failed to pay his/her cost of care; or

(f) An initial order issued pursuant to WAC 284-20-105 becomes final; or

(g) The facility ceases to operate.

(2) All transfer/discharge notices shall be given in accordance with WAC 484-20-103 and shall be subject to the provisions of WAC 484-20-105.

(3) When a resident is transferred or discharged under the provisions of subsection (1)(a) through (g) of this section, a record of the reasons for transfer/discharge shall be recorded in his/her clinical record.

(4) Any resident who strikes, threatens another person with bodily harm, is found in possession of a lethal weapon or illegal drugs shall be considered a threat to the health and safety of others. Review of such circumstances may be cause for immediate discharge from the facility in accordance with RCW 34.05.479. In such circumstances notice pursuant to WAC 484-20-103 shall be given as soon as practicable.

(5) Colony residents may be denied colony program benefits for any reason listed in subsection (1)(a) through (g) of this section as may be caused by failure to comply with provisions of WAC 484-20-089. Notice of denial of benefits shall be given in accordance with WAC 484-20-103 and shall be subject to the provisions of WAC 484-20-105.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-135 Transfer. (1) A resident may apply for transfer to either state veterans home or the colony located at Orting. ~~((Transfer shall be approved upon recommendation of the appropriate superintendent(s)).~~

(2) A resident may be transferred from one veterans' home to another upon recommendation of the transferring and the receiving superintendents and authorization by the director when such transfer is for medical reasons.) Requests for transfer are to be forwarded to the admissions team.

(2) All such requests shall be reviewed by the admissions team, using the admissions criteria.

(3) In addition, the admission team shall contact the superintendent of each state veterans home to obtain other information which may be pertinent to the transfer request.

(4) The admission team shall make a recommendation to approve or deny the transfer.

(5) The names of residents who are approved for transfer shall be placed on the waiting list for the program or service which the admission team has determined shall be most appropriate for their health care needs. The position on the waiting list shall be determined by the date on which the transfer was approved.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-140 Readmission. ~~((A former resident who requested voluntary discharge and received an honor-~~

~~able discharge may not apply for readmission until three months after discharge.~~

~~A former resident who received a disciplinary discharge may not apply for readmission until twelve months after discharge.~~

~~The superintendent may approve exceptions on a case-by-case basis, following review of the circumstances of the discharge.)~~ Former residents may apply for readmission to the facility by submitting an application in accordance with WAC 484-20-015.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-145 Burial in the state veterans home cemetery. ~~((The superintendent may authorize burial in home cemeteries for:~~

~~(1) A deceased resident for whom other arrangements have not been made;~~

~~(2) The deceased spouse of a former resident who is buried in the home cemetery, unless the spouse shall have remarried; or~~

~~(3) Cremated remains of a spouse, or other family member of a spouse who has not remarried since the death of a resident who is buried in the home cemetery, so long as burial will be in the same gravesite. All costs of burial shall be the responsibility of the next of kin.)~~ (1) The remains of individuals who die at a state veterans home shall be disposed of in accordance with any reasonable instructions given prior to death.

(2) An individual or his/her survivors (in the line of succession as designated in RCW 68.50.160) may request burial in the state veterans home cemetery when the deceased is:

(a) A veteran and a resident of the state veterans home at the time of death;

(b) The spouse of a former resident who is buried in the facility's cemetery, unless the spouse has remarried. If the spouse wishes to be buried in the facility's cemetery, he/she makes such a request with the knowledge that his/her remains will be cremated and buried in the same gravesite as the former resident.

(3) Funeral arrangements and all burial costs shall be the responsibility of the deceased individual's estate or his/her survivors (or the county if there are no survivors) in accordance with RCW 68.50.160.

AMENDATORY SECTION (Amending WSR 92-17-046, filed 8/14/92, effective 9/14/92)

WAC 484-20-150 Population level. The superintendents shall keep the population of the state veterans homes as close to full capacity as possible provided; such population approximates the population ~~((for which budgeted by the legislature. Residents will be assigned to a level of care consistent with their health care needs))~~ submitted and approved in the department's budget.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 484-20-050	Eligibility—Income.
WAC 484-20-075	Aid and attendance account.
WAC 484-20-110	Fair hearing.

WSR 94-14-039
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed June 29, 1994, 8:51 a.m.]

Original Notice.

Title of Rule: Chapter 246-338 WAC, Medical test site rules.

Purpose: To establish in WAC the rules for licensure of medical test sites (MTS) for implementation of chapter 70.42 RCW.

Statutory Authority for Adoption: Chapter 70.42 RCW.
 Statute Being Implemented: Chapter 70.42 RCW.

Summary: Chapter 246-338 WAC, Medical test site rules, is amended. Amendments include a new fee category for MTS performing less than 750 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 (CLIAC). Other changes are housekeeping or clarification issues.

Reasons Supporting Proposal: The department is lowering the costs for small businesses by creating a new fee category and is recognizing mid-level practitioners as primary care providers qualified to perform microscopic procedures, as recommended by the federal CLIAC.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Martha G. Simon, Department of Health, (206) 361-2806.

Name of Proponent: Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The new fee category will lower the cost of a license for small businesses (performing less than 750 tests/year). The expansion of the PPMP category will lower costs for mid-level practitioners that are only performing certain microscopic procedures.

Proposal Changes the Following Existing Rules: Changes in definition of PPMP license category; addition of "limited testing" category; clarification of proficiency testing grading criteria.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Facilities performing clinical laboratory procedures are regulated by the federal government under the clinical laboratory improvement amendment (CLIA). The federal government did a regulatory impact analysis that was published with the final CLIA regulations in the February 28, 1992, Federal Register. States that have regulations that are as stringent as CLIA can apply for exemption from federal CLIA regulation. Wash-

ington state was granted an exemption from CLIA in October 1993. The proposed changes to the medical test site rules will lower the cost for small businesses.

Hearing Location: Public Health Lab, 1610 N.E. 150 Street, Seattle, WA 98155-9701, on August 10, 1994, at 10 a.m.

Assistance for Persons with Disabilities: Contact Jennifer Hart, by August 1, 1994, (206) 361-2801.

Submit Written Comments to: Ann Foster, P.O. Box 47890, Olympia, WA 98504-7890, by August 9, 1994.

Date of Intended Adoption: August 10, 1994.

June 23, 1994

Mimi L. Fields, MD, MPH
 State Health Officer

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-010 Definitions. For the purpose of chapter 70.42 RCW and this chapter, the following words and phrases have these meanings unless the context clearly indicates otherwise.

(1) "Accreditation body" means a public or private organization or agency which accredits, certifies, or licenses medical test sites, by establishing and monitoring standards judged by the department to be consistent with federal law and regulation, and this chapter.

(2) "Authorized person" means any individual allowed by Washington state law or rule to order tests or receive test results.

(3) "Case" means any slide or group of slides, from one patient specimen source, submitted to a medical test site, at one time, for the purpose of cytological or histological examination.

(4) "Certificate of waiver" means a medical test site performing one or more of the tests listed under WAC 246-338-030(11), and no other tests.

(5) "Days" means calendar days.

(6) "Department" means the department of health.

(7) "Designated test site supervisor" means the available individual responsible for the technical functions of the medical test site and meeting the qualifications for Laboratory Director, listed in 42 CFR Part 493 Subpart M - Personnel for Moderate and High Complexity Testing.

(8) "Disciplinary action" means license or certificate of waiver denial, suspension, condition, revocation, civil fine, or any combination of the preceding actions, taken by the department against a medical test site.

(9) "Facility" means one or more locations where tests are performed, within one campus or complex, under one owner.

(10) "Federal law and regulation" means Section 353 of the Public Health Service Act, Clinical Laboratory Improvement Amendments of 1988, and regulations implementing the federal amendments, 42 CFR Part 493 - Laboratory Requirements.

(11) "Forensic" means investigative testing in which the results are never used for health care or treatment, or referral to health care or treatment, of the individual.

(12) "Licensed test" means all tests categorized as ~~((physician performed))~~ provider-performed microscopic procedures or moderate or high complexity tests consistent

with federal law and regulation and not specifically listed as waived under WAC 246-338-030(11), or defined as forensic under subsection (11) of this section.

(13) "Limited public health testing" means a combination of fifteen or less waived tests, as listed under WAC 246-338-030(11), or tests of moderate complexity, as defined under subsection (12) of this section;

(14) "May" means permissive or discretionary on the part of the department.

(15) "Medical test site" or "test site" means any facility or site, public or private, which analyzes materials derived from the human body for the purposes of health care, treatment, or screening. A medical test site does not mean:

(a) A facility or site, including a residence, where a test approved for home use by the Federal Food and Drug Administration is used by an individual to test himself or herself without direct supervision or guidance by another and where this test is not part of a commercial transaction; or

(b) A facility or site performing tests solely for forensic purposes.

(16) "Owner" means the person, corporation, or entity legally responsible for the business requiring licensure or a certificate of waiver as a medical test site under chapter 70.42 RCW.

(17) "Performance specification" means a value or range of values for a test that describe its accuracy, precision, analytical sensitivity, analytical specificity, reportable range and reference range.

(18) "Person" means any individual, public organization, private organization, agent, agency, corporation, firm, association, partnership, or business.

(19) "Physician" means an individual with a doctor of medicine, doctor of osteopathy, doctor of podiatric medicine, or equivalent degree who is a licensed professional under chapter 18.71 RCW Physicians; chapter 18.57 RCW Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW Podiatric medicine and surgery.

(20) "~~((Physician performed))~~ Provider-performed microscopic procedures" means only those tests listed under WAC 246-338-020 (2)(b)(i) through ~~((viii))~~ (ix), when the tests are performed ~~((by a physician))~~ in conjunction with a patient's visit by a licensed professional meeting one or more of the following qualifications:

(a) Physician licensed under chapter 18.71 RCW, Physicians; chapter 18.57 RCW, Osteopathy—Osteopathic medicine and surgery; or chapter 18.22 RCW, Podiatric medicine and surgery;

(b) Advanced registered nurse practitioner, licensed under chapter 18.88 RCW, Registered nurses;

(c) Nurse midwife licensed under chapter 18.50 RCW, Midwifery;

(d) Physician assistant licensed under chapter 18.71A RCW, Physician assistants; or

(e) Naturopath licensed under chapter 18.36A RCW, Naturopathy.

(21) "Provisional license" means an interim approval issued by the department to the owner of a medical test site.

(22) "Recordkeeping" means books, files, or records necessary to show compliance with the quality control and quality assurance requirements under this chapter.

(23) "Shall" means compliance is mandatory.

(24) "Specialty" means a group of similar subspecialties or tests. The specialties for a medical test site are as follows:

- (a) Chemistry;
- (b) Cytogenetics;
- (c) Diagnostic immunology;
- (d) Immunohematology;
- (e) Hematology;
- (f) Histocompatibility;
- (g) Microbiology;
- (h) Pathology; and
- (i) Radiobioassay.

(25) "Subspecialty" means a group of similar tests. The subspecialties of a specialty for a medical test site are as follows, for:

(a) Chemistry, the subspecialties are routine chemistry, urinalysis, endocrinology, toxicology, and other chemistry;

(b) Diagnostic immunology, the subspecialties are syphilis serology and general immunology;

(c) Immunohematology, the subspecialties are blood group and Rh typing, antibody detection, antibody identification, crossmatching, and other immunohematology;

(d) Hematology, the subspecialties are routine hematology, coagulation, and other hematology;

(e) Microbiology, the subspecialties are bacteriology, mycology, parasitology, virology, and mycobacteriology; and

(f) Pathology, the subspecialties are histopathology, diagnostic cytology, and oral pathology.

(26) "Supervision" means authoritative procedural guidance by a qualified individual, assuming the responsibility for the accomplishment of a function or activity by technical personnel.

(27) "Technical personnel" means individuals employed to perform any test or part of a test.

(28) "Test" means any examination or procedure conducted on a sample taken from the human body, including screening.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-020 Licensure of the medical test sites. (1) After July 1, 1990, no person shall advertise, operate, manage, own, conduct, open, or maintain a medical test site without first obtaining from the department, a license or a certificate of waiver as described under chapter 70.42 RCW and this chapter.

(2) Applicants requesting a medical test site license or renewal shall:

(a) Submit a completed application and fee for the appropriate category of license to the department on forms furnished by the department, including signature of the owner;

(b) Submit a completed application and fee for ~~((physician performed))~~ provider-performed microscopic procedures if the medical test site restricts its testing performance to waived tests as listed under WAC 246-338-030(11) and one or more of the tests listed in this section, unless specifically disallowed under federal law and regulation:

(i) Wet mounts, including, but not limited to, preparations of vaginal, cervical or skin specimens;

(ii) Potassium hydroxide (KOH) preparations;

- (iii) Pinworm examinations;
- (iv) Fern tests;
- (v) Post-coital direct, qualitative examinations of vaginal or cervical mucous;
- (vi) Urine sediment examinations; ~~((and))~~
- (vii) Nasal smears for eosinophils;
- (viii) Post vasectomy qualitative semen analysis; and
- (ix) Any other tests specifically categorized under federal law and regulation as ~~((physician-performed))~~ provider-performed microscopic procedures;
- (c) File a separate application for each facility except under the following conditions:
- (i) If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single license for the home base location;
- (ii) If the medical test site is a not-for-profit or state or local government laboratory that engages in limited public health testing at different locations, the owner may file an application for a single license;
- (d) Furnish full and complete information to the department in writing, as required for proper administration of rules implementing chapter 70.42 RCW including:
- (i) Name, address, and phone number of the medical test site;
- (ii) Name, address, and phone number of the owner of the medical test site;
- (iii) Number and types of tests performed, planned, or projected;
- (iv) Names and qualifications including educational background, training, and experience of the designated test site supervisor;
- (v) Names and qualifications including educational background, training, and experience of technical personnel, if requested by the department, in order to determine consistency with federal law and regulation;
- (vi) Name of proficiency testing program or programs used by the medical test site and a copy of the enrollment form for initial application;
- (vii) Other information as required to implement chapter 70.42 RCW; and
- (viii) Methodologies for tests performed, when the department determines the information is necessary, consistent with federal law and regulation.
- (e) Submit to inspections by the Health Care Financing Administration (HCFA) or HCFA agents as a condition of licensure or approval, for the purpose of validation or in response to a complaint against the medical test site; and
- (f) Authorize the department to release to HCFA or HCFA agents all records and information requested by HCFA;
- (3) The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current license.
- (4) The department shall:
- (a) Issue or renew a license for the medical test site, valid for two years, when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection (7) of this section;
- (b) Terminate a provisional license, at the time a two-year license for the medical test site is issued;
- (c) Establish fees to be paid under WAC 246-338-990;

(d) Prohibit transfer or reassignment of a license without thirty days prior written notice to the department and the department's approval;

(e) Examine records of the medical test site, if the department believes a person is conducting tests without an appropriate license;

(f) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time, not to exceed sixty days, after department approval of a written plan of correction;

(g) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

(5) The department shall also issue a license for a medical test site if the medical test site:

(a) Is accredited, certified, or licensed by an accreditation body under WAC 246-338-040; and

(b) Submits to the department:

(i) Information defined under subsection (2)(a) and (d) of this section;

(ii) Proof of accreditation, certification or licensure by an accreditation body within eleven months of issuance of the medical test site license; and

(c) Authorizes the accrediting body to submit, upon request from the department:

(i) On-site inspection results;

(ii) Statement of deficiencies;

(iii) Plan of correction for the deficiencies cited;

(iv) Any disciplinary action and results of any disciplinary action taken by the accreditation body against the medical test site; and

(v) Any records or other information about the medical test site required for the department to determine whether or not standards are consistent with chapter 70.42 RCW and this chapter.

(6) The department shall require the owner of a medical test site to reapply for a medical test site license if:

(a) Proof of accreditation is not supplied to the department within eleven months of issuance of the medical test site license; or

(b) The medical test site has its accreditation denied or terminated by the accreditation body.

(7) The department may:

(a) Issue, to a medical test site applying for licensure for the first time a provisional license valid for a period of time not to exceed two years from date of issue;

(b) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(c) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The department may:

(a) Extend a license for a period not to exceed six months beyond the expiration date of the license; or

(b) Issue a license for a period of one year for applications for licensure or renewal submitted during September 1993 to ~~((October 1994))~~ August 1995.

(9) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

(a) Full name, address, and location of the current owner and prospective new owner, if known;

(b) Name and address of the medical test site and the new name of the medical test site, if known;

(c) Changes in technical personnel and supervisors, if known; and

(d) The date of the proposed change of ownership.

(10) The prospective new owner shall submit the information required under subsection (2)(a) and (d) of this section, at least thirty days prior to the change of ownership.

(11) The owner shall inform the department within thirty days, in writing, of:

(a) The date of opening or closing the medical test site; and

(b) Any changes in:

(i) Name;

(ii) Location; or

(iii) Designated test site supervisor.

(12) The owner shall inform the department within six months, in writing, of any changes in:

(a) Tests, specialties and subspecialties; and

(b) Test methodology.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-030 Waiver from licensure of medical test sites. (1) The department shall grant a certificate of waiver to a medical test site performing only the tests listed under this section.

(2) Applicants requesting a certificate of waiver or renewal shall:

(a) Submit a completed application and fee for initial certificate of waiver or renewal to the department on forms furnished by the department, including signature of the owner; and

(b) File a separate application for each facility except under the following conditions:

(i) If the medical test site is not at a fixed location and moves from testing site to testing site, or uses a temporary testing location such as a health fair, the medical test site may apply for a single certificate of waiver for the home base location;

(ii) If the medical test site is a not-for-profit or state or local government laboratory that performs, at different locations, only those tests listed in subsection (11) of this section, the owner may file an application for a single certificate of waiver;

(c) Furnish full and complete information to the department in writing, as required for proper administration of rules to implement chapter 70.42 RCW including:

(i) Name, address, and phone number of the medical test site;

(ii) Name, address, and phone number of the owner of the medical test site;

(iii) Number and types of tests performed, planned or projected;

(iv) Names and qualifications including educational background, training and experience of the personnel directing and supervising the medical test site;

(v) Names and qualifications including educational background, training, and experience of personnel performing the test procedures, if requested by the department, in order to determine consistency with federal law and regulation;

(vi) Other information as required to implement chapter 70.42 RCW; and

(vii) Methodologies for tests performed, when the department determines the information is necessary consistent with federal law and regulation.

(3) The owner or applicant shall submit an application and fee to the department thirty days prior to the expiration date of the current certificate of waiver.

(4) The department shall:

(a) Grant a certificate of waiver or renewal of a certificate of waiver for the medical test site valid for two years when the applicant or owner meets the requirements of chapter 70.42 RCW and this chapter, subject to subsection ~~((5))~~ (6) of this section;

(b) Establish fees to be paid under WAC 246-338-990; and

(c) Prohibit transfer or reassignment of a certificate of waiver without thirty days prior written notice to the department and the department's approval.

(5) The department may:

(a) Extend a certificate of waiver for a period not to exceed six months beyond the expiration date of the certificate of waiver; or

(b) Issue a certificate of waiver for a period of one year for initial or renewal applications submitted during September 1993 to ~~((October 1994))~~ August 1995.

(6) If the department has reason to believe a waived site is conducting tests requiring a license, the department shall:

(a) Conduct on-site reviews of the medical test site;

(b) Examine records of the medical test site;

(c) Give written notice of any violations to the medical test site, including a statement of deficiencies observed and requirements to:

(i) Present a written plan of correction to the department within fourteen days following the date of postmark; and

(ii) Comply within a specified time not to exceed sixty days after department approval of a written plan of correction;

(d) Allow the owner a reasonable period of time, not to exceed sixty days, to correct a deficiency unless the deficiency is an immediate threat to life, health, or safety.

(7) The department may:

(a) Conduct on-site review of a medical test site at any time to determine compliance with chapter 70.42 RCW and this chapter; and

(b) Initiate disciplinary action, as described under chapter 70.42 RCW and this chapter, if the owner or applicant fails to comply with chapter 70.42 RCW and this chapter, consistent with chapter 34.05 RCW, Administrative Procedure Act.

(8) The owner shall notify the department, in writing, at least thirty days prior to the date of a proposed change of ownership and provide the following information:

- (a) Full name, address, and location of the current owner and prospective new owner, if known;
- (b) Name and address of the medical test site and the new name of the medical test site, if known;
- (c) Changes in personnel directing the medical test site, if known; and
- (d) The date of the proposed change of ownership.

(9) The prospective new owner shall submit the information required under subsection (2)(a) and (c) of this section, at least thirty days prior to the change of ownership.

(10) The owner shall inform the department within thirty days, in writing, of:

- (a) The date of opening or closing the medical test site; and
- (b) Any changes in:
 - (i) Name;
 - (ii) Location; or
 - (iii) Personnel directing the medical test site.

(11) The department shall grant a certificate of waiver if the medical test site performs only the tests listed in this section and no other tests unless specifically disallowed or allowed under federal law and regulation:

- (a) Dipstick or tablet reagent urinalysis;
- (b) Fecal occult blood;
- (c) Ovulation tests-visual color comparison tests for human luteinizing hormone;
- (d) Urine pregnancy tests-visual color comparison tests;
- (e) Erythrocyte sedimentation rate-nonautomated;
- (f) Hemoglobin-copper sulfate-nonautomated;
- (g) Blood glucose by glucose monitoring devices cleared by the FDA specifically for home use;
- (h) Spun microhematocrit; and
- (i) Hemoglobin by single analyte instruments with self-contained or component features to perform specimen/reagent interaction, providing direct measurement and readout.

(12) The department will make additions or deletions to the list of waived tests under subsection (11) of this section, by rule, consistent with federal law and regulation.

(13) If the medical test site adds tests not included under subsection (11) of this section, the owner shall apply for licensure as defined under chapter 70.42 RCW and WAC 246-338-020.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-050 Proficiency testing. (1) ~~((Effective January 1, 1994:~~

~~((a))) All licensed medical test sites, excluding those granted a certificate of waiver, shall:~~

~~(a) Comply with federal proficiency testing requirements listed in 42 CFR Part 493-Laboratory Requirements, ((Subpart H Participation in Proficiency Testing for Laboratories Performing Tests of Moderate or High Complexity;)) Subparts H and I; and~~

~~(b) ((By December 31 of each year, each medical test site, excluding those granted a certificate of waiver, shall)) Submit to the department, by December 31 of each year, a~~

copy of proficiency testing enrollment form(s) for the tests the medical test site will perform during the following calendar year((s)).

~~((e))) (2) The department ((will)) shall:~~

~~(a) Recognize only those programs approved by the HCFA; and~~

~~((d) The department shall evaluate proficiency testing results according to the grading criteria listed in 42 CFR Part 493 Subparts H and I; and~~

~~(e) The department, upon request, shall)) (b) Furnish, upon request:~~

~~(i) 42 CFR Part 493 Subparts H and I; and~~

~~(ii) A list of the programs approved by HCFA.~~

~~((2) Until December 31, 1993, each medical test site shall comply with proficiency testing requirements as described in this section.~~

~~(3) Except where there is no available proficiency test, each licensed medical test site shall demonstrate satisfactory participation in a department approved proficiency testing program appropriate for the test or tests performed on-site, excluding waived tests as listed under WAC 246-338-030(11).~~

~~(4) The department, upon request, shall furnish a list of the approved proficiency testing programs under RCW 70.42.050.~~

~~(5) The department may approve the owner or applicant's use of a specific proficiency testing program when the program:~~

~~(a) Assures the quality of test samples;~~

~~(b) Appropriately evaluates the testing results;~~

~~(c) Identifies performance problems in a timely manner;~~

~~(d) Has the technical ability required to prepare and distribute samples;~~

~~(e) Uses methods assuring samples mimic actual patient specimens when possible and where applicable;~~

~~(f) Uses homogenous samples if applicable;~~

~~(g) Maintains stability of samples within the time frame specified in written instructions for analysis by proficiency testing participants;~~

~~(h) Provides necessary documentation to establish requirements under this section;~~

~~(i) Uses an appropriate process for determining the correct answer for each sample; and~~

~~(j) Uses at least two samples per test each testing event if applicable.~~

~~(6) The medical test site shall:~~

~~(a) Assure testing of proficiency testing samples in a similar manner as patient specimens are tested, unless otherwise specifically requested by the proficiency testing program;~~

~~(b) Assure testing of proficiency testing samples on site by the technical personnel performing examinations on patient specimens;~~

~~(c) Maintain reports of graded results received from the proficiency testing program and documentation of the:~~

~~(i) Test methodology;~~

~~(ii) Identification of technical personnel performing the tests; and~~

~~(iii) Reporting of results of the proficiency testing samples; and~~

~~(d) Request that the proficiency testing program provide a copy of the graded proficiency testing results to the department.~~

~~(7))~~ (3) The department shall evaluate proficiency testing results by using the following grading criteria:

(a) An evaluation of scores for the last ~~((four ship-ments))~~ three testing events of proficiency testing samples including:

- (i) Tests;
- (ii) Subspecialties; and
- (iii) Specialties;

(b) Maintenance of a minimum acceptable score ~~((for satisfactory participation as follows:~~

~~(i) Seventy-five percent))~~ of eighty percent for all tests, subspecialties, and specialties except ~~((for human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and immunohematology; and~~

~~(ii))~~ one hundred percent for ~~((all tests, subspecialties, and specialties for HIV/AIDS and immunohematology);~~

(i) ABO group and D(Rh_c) typing; and

(ii) Compatibility testing;

(c) ~~((A grade of marginal))~~ Unsatisfactory performance occurs when:

(i) ~~((An unsatisfactory score is obtained on any single test in a shipment for immunohematology or HIV/AIDS; or~~

~~(ii) For all other tests, subspecialties, or specialties if:~~

~~(A))~~ Unsatisfactory scores are obtained in any specialty or subspecialty ~~((on two of any three successive shipments))~~ in a testing event; or

~~((B))~~ (ii) An unsatisfactory score is obtained on a single test ~~((on two of any three successive shipments))~~ in a testing event;

(d) Unsuccessful participation occurs when a grade of unsatisfactory performance ~~((occurs when unsatisfactory shipment scores are))~~ is obtained on a single test or in a specialty or subspecialty on ~~((three))~~ two of any ~~((four))~~ three successive ~~((shipments))~~ testing events.

~~((8))~~ (4) For ~~((marginal performance on))~~ unsuccessful participation in proficiency testing ~~((samples)),~~ the following ~~((department and medical test site))~~ actions shall occur:

(a) The department shall mail a ~~((cautionary))~~ letter to the designated test site supervisor stating that the medical test site may choose to:

(i) Discontinue patient testing for the identified test, specialty or subspecialty; or

(ii) Follow a directed plan of correction; and

(b) The medical test site shall~~((:~~

~~(i) Determine the cause of the marginal proficiency testing performance; and~~

~~(ii) Keep records at the medical test site showing what action was taken to correct the problem.~~

~~(9) In addition the department may require the owner of the medical test site demonstrating marginal performance in any identified test, subspecialty or specialty, to:~~

~~(a) Submit a plan of correction to the department within fifteen days from receipt of notice; and~~

~~(b) Provide or ensure:~~

~~(i) Additional training of personnel;~~

~~(ii) Necessary technical assistance to meet the requirements of the proficiency testing program and the department;~~

~~(iii) Participation in a program of additional proficiency testing, if available; or~~

~~(iv) Any combination of training, technical assistance, or testing described under (b)(i), (ii), and (iii) of this subsection.~~

~~(10) For unsatisfactory performance on proficiency testing samples))~~ notify the department, within fifteen days of receipt of the notice of the decision to:

(i) Discontinue testing patient specimens for the identified test, subspecialty or specialty; or

(ii) Agree to a directed plan of correction.

(5) After completing a directed plan of correction, if a medical test site has continued unsatisfactory performance for a test, specialty or subspecialty in either of the next two sets of proficiency testing samples, the following action will occur:

(a) The department shall send to the owner and designated test site supervisor by certified mail~~((:~~

~~(a) A letter identifying the particular problem;~~

~~(b) Acknowledgement of previous contacts; and~~

~~(e))~~ a notice to the medical test site to cease performing the identified test, subspecialty, or specialty~~((:~~

~~((11))~~; and

(b) The owner shall notify the department within fifteen days of the receipt of the notice of the decision to voluntarily stop performing tests on patient specimens for the identified test, subspecialty, or specialty.

~~((12))~~ (6) The owner may petition the department for reinstatement of approval to perform tests on patient specimens after demonstrating satisfactory performance on two successive ~~((shipments))~~ testing events of proficiency testing samples for the identified test, subspecialty, or specialty.

~~((13))~~ (7) The department shall notify the owner in writing, within fifteen days of receipt of petition, of the decision related to the request for reinstatement.

AMENDATORY SECTION (Amending Order 390, filed 9/1/93, effective 10/2/93)

WAC 246-338-990 Fees. (1) For the purpose of this section, the following words and phrases have the following meanings:

(a) "Accredited by organization" means a testing site is accredited, certified, or licensed by an organization meeting the requirements of WAC 246-338-040, Approval of accreditation bodies;

(b) "Limited testing" means a medical test site performing not more than seven hundred fifty licensed tests per year;

(c) "Low volume" means a medical test site performing greater than seven hundred fifty licensed tests per year, and not more than two thousand licensed tests per year;

~~((e))~~ (d) "Category A" means a medical test site performing greater than two thousand licensed tests per year, not more than ten thousand licensed tests per year and three or less specialties;

~~((d))~~ (e) "Category B" means a medical test site performing greater than two thousand licensed tests per year, not more than ten thousand licensed tests per year and at least four specialties;

~~((e))~~ (f) "Category C" means a medical test site performing greater than ten thousand licensed tests per year, not more than twenty-five thousand licensed tests per year and three or less specialties;

WSR 94-14-041
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed June 29, 1994, 9:19 a.m.]

((f)) (g) "Category D" means a medical test site performing greater than ten thousand licensed tests per year, not more than twenty-five thousand licensed tests per year and four or more specialties;

((g)) (h) "Category E" means a medical test site performing greater than twenty-five thousand, but not more than fifty thousand licensed tests per year;

((h)) (i) "Category F" means a medical test site performing greater than fifty thousand, but not more than seventy-five thousand licensed tests per year;

((i)) (j) "Category G" means a medical test site performing greater than seventy-five thousand, but not more than one hundred thousand licensed tests per year;

((j)) (k) "Category H" means a medical test site performing greater than one hundred thousand, but not more than five hundred thousand licensed tests per year;

((k)) (l) "Category I" means a medical test site performing greater than five hundred thousand, but not more than one million licensed tests per year;

((l)) (m) "Category J" means a medical test site performing more than one million licensed tests per year;

((m)) (n) "Direct staff time" means all state employees' work time, including travel time and expenses involved in functions associated with medical test site licensure or complaint investigation including:

- (i) On-site follow up visit; and
(ii) Telephone contacts and staff or management conferences in response to a deficiency statement or complaint.

(2) The department shall assess and collect biennial fees for medical test sites as follows:

- (a) Charge fees, based on the requirements authorized under RCW 70.42.090 and this section;
(b) Assess additional fees when a medical test site adds licensed tests that result in a change of category; and
(c) Determine fees according to criteria below:

Table with 2 columns: Description and Fee. Includes rows for Certificate of waiver (\$100 per biennium), Physician performed/Provider-performed microscopic procedures (150 per biennium), Limited testing (500 per biennium), Categories A through J (1000-5500 per biennium), Accredited by organization (300 per biennium), Follow up survey for deficiencies (direct staff time), and Complaint investigation (direct staff time).

(3) The department shall exclude from fee charges the women, infant, and children (WIC) programs performing only hematocrit testing or hemoglobin testing as listed in WAC 246-338-030 (11)(f) or (i) for food distribution purposes and the Washington state migrant council performing only hematocrit testing or hemoglobin testing as listed in WAC 246-338-030 (11)(f) or (i) for nutritional evaluation.

Original Notice.

Title of Rule: Chapter 308-330 WAC, Model traffic ordinance.

Purpose: To amend chapter 308-330 WAC to include legislation enacted in the 1994 session and to make administrative corrections.

Statutory Authority for Adoption: RCW 46.90.010.

Other Identifying Information: Section 1, chapter 139, Laws of 1994; section 1, chapter 141, Laws of 1994; sections 4, 5, 6, 7, 10, 11, and 12, chapter 275, Laws of 1994; and section 1, chapter 305, Laws of 1994.

Statute Being Implemented: Chapters 139, 141, 275, and 305, Laws of 1994.

Summary: RCW 46.90.010 provides for the department to adopt by rule a comprehensive compilation of traffic laws to serve as a guide for local authorities. This proposed rule making amends chapter 308-330 WAC to incorporate laws of 1994.

Reasons Supporting Proposal: Chapter 308-330 WAC to incorporate Laws of 1994.

Name of Agency Personnel Responsible for Drafting and Implementation: Jack L. Lince, General Administration Building, Olympia, Washington, (206) 753-7379; and Enforcement: Local ordinance.

Name of Proponent: Department of Licensing, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: New rules are not being proposed.

Proposal Changes the Following Existing Rules: WAC 308-330-157, expand definition to include RCW 46.04.391; WAC 308-330-197, to incorporate RCW 46.09.190 previously omitted; WAC 308-330-300, incorporate RCW 46.12.250 and [46.12].270 previously omitted; WAC 308-330-307, to incorporate 1994 c 275 s 10; WAC 308-330-320, to incorporate 1994 c 305 s 1; WAC 308-330-400, to incorporate 1994 c 275 s 10 and repeal RCW 46.61.515 as provided in 1994 c 275 s 42; and WAC 308-330-425, to incorporate 1994 c 275 s 4, 5, 6, 7, 11, and 12, c 139 s 1, and c 141 s 1.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. A small business economic impact statement is not required under provisions of RCW 19.85.030(1).

Hearing Location: General Administration Building, Conference Room 3B, 210 11th Avenue S.W., Olympia, WA, on August 12, 1994, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Jack Lince by August 8, 1994, TDD (206) 664-8885, or (206) 753-7379.

Submit Written Comments to: Jack Lince, Vehicle Services Division, P.O. Box 2957, Olympia, WA 98507-2957, FAX (206) 664-0339, by August 8, 1994.

Date of Intended Adoption: August 19, 1994.

June 28, 1994
Nancy Kelly
Administrator

PROPOSED

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-157 Police or police officer. "Police or police officer" includes, in addition to the meaning in RCW 46.04.391, the police officers of a city, a town, marshal, or the sheriff and his/her deputies of a county whichever is applicable, but when the term sheriff is used in this chapter, it shall only mean the sheriff.

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

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-197 RCW sections adopted—Off road and nonhighway vehicles. The following sections of the Revised Code of Washington (RCW) pertaining to off road and nonhighway vehicles as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.09.020, 46.09.120, 46.09.130, 46.09.140, ~~((and))~~ 46.09.180 and RCW 46.09.190.

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

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-300 RCW sections adopted—Certificates of ownership and registrations. The following sections of the Revised Code of Washington (RCW) pertaining to vehicle certificates of ownership and registrations as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.250, 46.12.260, 46.12.270, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, and 46.12.380.

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

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-307 RCW sections adopted—Driver licenses—Identicards. The following sections of the Revised Code of Washington (RCW) pertaining to driver licenses and identification cards as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.338, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.394, 46.20.410, 46.20.420, 46.20.430, 46.20.435, 46.20.500, 46.20.510, 46.20.550, ~~((and))~~ 46.20.750, and 1994 C 275 S 10.

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

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-320 RCW sections adopted—Size, weight, load. The following sections of the Revised Code of Washington (RCW) pertaining to vehicle size, weight, and load as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.44.010, 46.44.015, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.105, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, ~~((and))~~ 46.44.180, and 1994 C 305 S 1.

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

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-400 Provisions of chapter refer to vehicles upon highway—Exception. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

(1) Where a different place is specifically referred to in a given section;

(2) The provisions of RCW 46.52.010, 46.52.020, 46.52.030, 46.52.070, 46.52.080, 46.52.090, and 46.61.500 through 46.61.~~((515))~~ 508, and 1994 C 275 S 10 shall apply upon highways and elsewhere throughout the jurisdiction of the local authority.

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

[AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-425 RCW sections adopted—Reckless driving, vehicular homicide and assault. The following sections of the Revised Code of Washington (RCW) pertaining to reckless driving, driving while under the influence of intoxicating liquor or any drug, vehicular homicide and assault as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.500, 46.61.502, 46.61.504, 46.61.506, ~~((46.61.515;))~~ 1994 C 139 S 1, 1994 C 141 S 1, 1994 C 275 S 4, 5, 6, 7, 11 and 12, 46.61.517, 46.61.519, 46.61.5191, 46.61.5195, 46.61.525, 46.61.530, 46.61.535, and 46.61.540.

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

WSR 94-14-055
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed June 30, 1994, 11:33 a.m.]

Original Notice.

Title of Rule: WAC 388-503-0310 Categorically needy eligible persons, 388-509-0910 Medicaid for children—Eligible to nineteen years of age, 388-509-0920 Children's health program, and 388-509-0960 Children's income standards.

Purpose: Increase standards to 200% of the federal poverty level (FPL) for children under nineteen years of age.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: Comply with state plan/budget.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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

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

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

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on August 9, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 29, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street, Olympia, Washington 98504, Identify WAC Numbers, FAX (206) 586-8487, by August 2, 1994.

Date of Intended Adoption: August 10, 1994.

June 30, 1994
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-503-0310 Categorically needy eligible persons. The department shall determine eligible for categorically needy medical assistance a client who is:

(1) Receiving or eligible to receive a cash assistance payment under:

(a) Aid to families with dependent children (AFDC); or

(b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or

optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for categorically needy medical assistance.

(2) A person twenty years of age or younger who meets the:

(a) One-person AFDC financial requirements and is in:

(i) Foster care; or

(ii) Subsidized adoption; or

(iii) A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or

(iv) An approved inpatient psychiatric facility.

(b) Eligibility requirements under chapter 388-509 WAC.

(3) A current client of Title II, Social Security Administration (SSA) benefits who:

(a) Was a concurrent client of Title II and SSI benefits;

(b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the client's spouse and/or other financially responsible family member living in the same household.

(4) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

(5) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(6) Effective January 1, 1991, any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under

Section 202 (e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215(i) of the act were disregarded.

(7) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

(a) Has attained eighteen years of age;
(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

(8) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the Permanently and totally disabled (APTD); and

(b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(9) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

(11) A child eighteen years of age or younger meeting residence, citizenship, and Social Security number requirements whose countable family income is(=

~~(a) Under one hundred eighty five percent of the Federal Poverty Level (FPL) for a child under one year of age; or~~

~~(b) Under one hundred thirty three percent of the FPL for a child five years of age or younger; or~~

~~(c) Under one hundred percent of the FPL for a child eighteen years of age or younger))~~ at or under two hundred percent of the FPL.

(12) In a family unit ineligible for AFDC financial assistance as a result (wholly or in part) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility, if the family unit received AFDC financial assistance in at least three of the six months immediately preceding the month of ineligibility;

(13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed; and

(c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.

(14) Denied AFDC cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized; or

(b) Is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized, and the person's gross income does not exceed the three hundred percent SSI benefit cap.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) A person eligible for and accepting hospice services as described under WAC 388-86-047 and who shall be:

(a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or

(b) AFDC categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for AFDC or SSI cash assistance because of deeming of income of the alien's sponsors;

(20) Not an inmate of a public institution;

(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or

(22) A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-509-0910 Medicaid for children—Eligible to nineteen years of age. The department shall find a child eighteen years of age or younger eligible for Medicaid when the child meets:

(1) Citizenship, residence, and Social Security number requirements under chapter 388-505 WAC; and

(2) Income (~~requirements corresponding to the age level of the child~~) standards described under WAC 388-509-0960 ~~((1), (2), and (3))~~.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-509-0920 Children's health program. (1) The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

(a) The child is not eligible for a federally-funded Medicaid program; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under ~~((WAC 388-509-0960(3)))~~ subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

PROPOSED

(a) Following AFDC methodology; and
(b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

- (a) Citizenship;
- (b) Social Security number; or
- (c) Resources limits.

(4) The department shall find that one hundred percent of the current FPL equals:

<u>Family Size</u>	<u>Monthly Income</u>
<u>(a) One</u>	<u>\$ 614</u>
<u>(b) Two</u>	<u>\$ 820</u>
<u>(c) Three</u>	<u>\$1,027</u>
<u>(d) Four</u>	<u>\$1,234</u>
<u>(e) Five</u>	<u>\$1,440</u>
<u>(f) Six</u>	<u>\$1,647</u>
<u>(g) Seven</u>	<u>\$1,854</u>
<u>(h) Eight</u>	<u>\$2,060</u>

(i) For family units with more than eight members, add \$207 to the monthly income for each additional member.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-509-0960 Children's income standards.

The department shall determine((=

~~(1) An infant under one year of age eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty five percent of the current federal poverty level (FPL). See income guidelines as described under WAC 388-508-0805.~~

~~(2) A child one year of age, but under six years of age, eligible as categorically needy when the total family countable income does not exceed one hundred thirty three percent of the FPL. One hundred thirty three percent of the current FPL is:~~

<u>Family Size</u>	<u>Monthly Income</u>
<u>(a) One</u>	<u>\$ 816</u>
<u>(b) Two</u>	<u>\$1,091</u>
<u>(c) Three</u>	<u>\$1,366</u>
<u>(d) Four</u>	<u>\$1,641</u>
<u>(e) Five</u>	<u>\$1,916</u>
<u>(f) Six</u>	<u>\$2,191</u>
<u>(g) Seven</u>	<u>\$2,465</u>
<u>(h) Eight</u>	<u>\$2,740</u>

~~(i) For family units with more than eight members, add \$275 to the monthly income for each additional member.~~

~~(3)) a child ((eighteen years of age or younger)) meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed ((one)) two hundred percent of the federal poverty level (FPL). ((One)) The department shall find that two hundred percent of the current FPL ((=)) equals:~~

<u>Family Size</u>	<u>Monthly Income</u>
((a) One	\$ 614
(b) Two	\$ 820
(c) Three	\$1,027
(d) Four	\$1,234
(e) Five	\$1,440
(f) Six	\$1,647
(g) Seven	\$1,854
(h) Eight	\$2,060))

<u>(1) One</u>	<u>\$1,227</u>
<u>(2) Two</u>	<u>\$1,640</u>
<u>(3) Three</u>	<u>\$2,054</u>
<u>(4) Four</u>	<u>\$2,467</u>
<u>(5) Five</u>	<u>\$2,880</u>
<u>(6) Six</u>	<u>\$3,294</u>
<u>(7) Seven</u>	<u>\$3,707</u>
<u>(8) Eight</u>	<u>\$4,120</u>

~~((=)) (9) For family units with more than eight members, add ((=\$207)) \$414 to the monthly income for each additional member.~~

WSR 94-14-056
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed June 30, 1994, 11:35 a.m.]

Original Notice.

Title of Rule: WAC 388-527-2710 Recovery from estates.

Purpose: Implements the provisions of Omnibus Budget Reconciliation Act of 1993 (OBRA) and state law HB 2492. OBRA establishes provisions for the state agency to establish procedures for recovering cost of institutional, medical, and related care from a medical assistance client's estate. Mandatory for the state receiving federal financial participation. Amended to lower the age of client affected from sixty-five to fifty-five years of age. "Undue hardship" provisions are established. Effective date of change is set by law to be July 1, 1994.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: OBRA 1993, HB 2492, RCW 74.08.090.

Summary: The rule amends the age of affected persons from sixty-five to fifty-five years of age. Undue hardship requirements and notification requirements are included.

Reasons Supporting Proposal: OBRA 93 required states to pass legislation to have consistency in the state recovery provisions. HB 2510 was passed to accomplish this. However, both state and federal laws have a provision regarding "undue hardship." This provision requires the secretary to approve state hardship requirements. This approval has not yet been received, however, the law must be effective July 1, 1994, to receive federal financial participation.

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

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

Rule is necessary because of federal law, OBRA 1993 and HB 2492.

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

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on August 9, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 29, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street, Olympia, Washington 98504, Identify WAC Numbers, FAX (206) 586-8487, by August 2, 1994.

Date of Intended Adoption: August 10, 1994.

June 30, 1994

Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-527-2710 Recovery from estates. (1) The department may file a lien against a client's property at any time pursuant to a judgment of a court on account of medical assistance incorrectly paid on behalf of a client.

(2) The department shall continue to seek adjustment or recovery of medical assistance which is recoverable before July 1, 1994 under subsection (3) and (4) of this section.

(3) For a medical assistance client whose death occurred on or prior to June 30, 1994, the department shall recover the cost of public assistance benefits provided under chapter 74.09 RCW provided to a client, who was sixty-five years of age or older, upon the client's death, except:

- (a) When there is a surviving spouse; or
- (b) When there is a surviving child:
 - (i) Twenty years of age and under; or
 - (ii) Blind or disabled as defined under chapter 388-511 WAC; or

(c) For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held in the possession of the deceased client to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

~~((2))~~ (4) For a medical assistance client whose death occurs on or after July 1, 1994, the department shall ~~(assert and enforce)~~ recover from the client's estate the cost of nursing facility services, home and community-based services and related hospital, prescription drug and Medicare cost sharing services, paid on behalf of a client, who was fifty-five years of age or older when the client received the services.

(5) The department shall seek adjustment or recovery of a claim against the estate of the deceased client for the debt in subsection ~~((4))~~ (3) and (4) of this section, in accordance with chapter 11.40 RCW.

~~((3))~~ (6) The department shall:

(a) File a lien against any real property which ~~((was in the name of the client just before the))~~ is included in a deceased client's ~~((death-~~

~~(a) The department shall))~~ estate;

(b) File the lien with the county auditor of the county in which the property is located; ~~(and~~

~~(b) The department shall deem))~~

(c) Consider the lien effective as of the date of the client's death; and

~~((e) The department's recovery of property shall be))~~

(d) Recover the cost of medical assistance as described in subsection (3) and (4) of this section from the estate or upon the next sale or transfer of the property.

~~((4) When a surviving spouse or child, as defined under subsection (1)(b) of this section, is discovered or contacts the department before recovery, the department shall release the lien-~~

~~(5) The term "child" shall include both natural and adopted children-~~

~~((6))~~ (7) The department shall:

(a) Seek adjustment or recovery from a person's estate where there is a surviving spouse; and

(b) Collect against the lien upon the death of the surviving spouse or upon the next sale or transfer of the property.

(8) The department shall not seek adjustment or recovery when there is a surviving child who is:

- (a) Twenty years of age and under; or
- (b) Blind or disabled as defined under chapter 388-511 WAC.

(9) The department shall waive recovery of medical assistance costs described in subsection (4) of this section when such recovery would work an undue hardship as described in subsection (12) of this section.

(10) The department may undertake partial recovery to avoid an undue hardship situation as described in subsection (12) of this section.

(11) The department may consider, in situations where recovery is not waived because of undue hardship and the heirs of the estate from which recovery is sought wish to satisfy the recovery claim without selling a nonliquid asset, a reasonable payment schedule, subject to reasonable interest.

(12) For the purpose of this section:

(a) The value of the estate shall be the total estate value less any liabilities on any real property outstanding at the time of the client's death. "Estate" includes all real and personal property and other assets as provided under Washington state probate law.

(b) "Undue hardship" exists when:

(i) The estate subject to adjustment or recovery is the sole income-producing asset of the survivors and income is limited;

(ii) Recovery would result in the impoverishment of the survivors;

(iii) The estate subject to adjustment or recovery consists of a homestead as defined in chapter 6.13 RCW and the sole occupants or survivors have limited income and resources; or

(iv) The department determines the adjustment or recovery of the claim is not cost effective.

(c) "Undue hardship" does not exist when:

(i) The adjustment or recovery of the client's cost of medical assistance as described in subsection (4) of this section would merely cause the client's family members inconvenience or restrict the families lifestyle; or

(ii) The survivor divests assets in order to qualify under the hardship provision.

WSR 94-14-057
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Filed June 30, 1994, 11:36 a.m.]

Original Notice.

Title of Rule: WAC 388-506-0610 AFDC related medical programs.

Purpose: Provides that Sneede vs. Kizer rules are changed to allow an eligibility determination for one or more family members based on family income prior to establishing separate medical assistance units. This change is intended to simplify the process.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: Change the Sneede vs. Kizer processing.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Joanie Scotson, Medical Assistance Administration, 753-7462.

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

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

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

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This is a change in eligibility criteria for the client. Medical assistance administration has not identified any business entity that would be impacted by this client eligibility criteria.

Hearing Location: OB-2 Auditorium, 14th and Franklin, Olympia, Washington, on August 9, 1994, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by July 29, 1994, TDD (206) 753-4595, or SCAN 234-4595.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Franklin Street, Olympia, Washington 98504, Identify WAC Numbers, FAX (206) 586-8487, by August 2, 1994.

Date of Intended Adoption: August 10, 1994.

June 30, 1994
 Dewey Brock, Chief
 Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-506-0610 AFDC related medical programs. (1) When determining eligibility for medical programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship;

(b) A relative financially responsible only as follows:

(i) The natural or adoptive parent or stepparent to a child eighteen years of age or younger living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when ~~((aH))~~ the family member~~((s-are))~~ is not eligible for a categorically needy medical care program:

(i) A child with countable income or resources;

(ii) A child in common of unmarried parents;

(iii) Each unmarried parent of a child in common with such parent's separate children, if any; or

(iv) A nonresponsible caretaker relative.

(d) Categorically related family members, other than those described under (c) of this subsection, in the same MAU; and

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section.

(2) The department shall consider income and resources jointly for spouses and spouses' children living in the same household unless the exceptions in subsection (1)(c) of this section are met. See WAC 388-506-0620 for the financial responsibility requirements for SSI-related clients.

(3) When determining eligibility for medical care, the department shall ~~((not))~~ consider the countable income or resources of a child available only to ~~((any person other than))~~ the child.

(4) The department shall consider the income of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall:

(i) Allow a parent one hundred percent of the Federal Poverty Level (FPL) for the parent and other members of the parent's MAU; and

(ii) Allocate income in excess of one hundred percent of the FPL on a prorated basis to all children eighteen years of age or younger in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall ensure a parent's countable resources are:

(i) Prorated; and

(ii) Allocated in equal shares to:

(A) The parent; and

(B) Each person for whom the parent is financially responsible.

PROPOSED

(b) Not living in the same household, only to the extent the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

- (a) Stepparent not legally liable for support of the stepchildren;
- (b) Legal guardian other than the parent of the client;
- (c) Caretaker other than the parent of the client;
- (d) Alien sponsor;
- (e) Sibling or child of the client; or
- (f) Spouse not living in the same household as the client.

(7) The department shall determine each MAU's medical care eligibility using:

- (a) The MAU's countable income and resources;
- (b) Household size for the number of persons in the MAU; and
- (c) The income and resource standards that apply to the household size equal to the number of persons in the MAU.

(8) For each separate MAU, the department shall exempt one vehicle as described under WAC 388-216-2650.

(9) When the household contains an SSI-related family member who is ineligible for AFDC-related categorically needy Medicaid because of income or resources, that member shall be removed from the MAU and placed in a separate CAU. The department shall determine eligibility for:

- (a) The remaining members of the MAU without consideration of the income or resources of the SSI-related client (~~The department shall determine eligibility of~~); and
- (b) The SSI-related member using SSI-related income and resource rules.

WSR 94-14-060
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
 [Filed June 30, 1994, 4:24 p.m.]

Effective immediately, the Department of Agriculture, Food Safety and Animal Health Division, wishes to withdraw the proposed rule change which establishes a renewal date for the annual milk processing plant license. Washington State Register number is WSR 94-14-034 filed on June 28, 1994.

Candace Jacobs
Acting Assistant Director

WSR 94-14-068
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 1, 1994, 3:15 p.m.]

Continuance of WSR 94-03-105.
 Title of Rule: Personal use rules.
 Purpose: Amend personal use fishing rules.
 Other Identifying Information: This continuation is for adoption only.
 Statutory Authority for Adoption: RCW 75.08.080.
 Statute Being Implemented: RCW 75.08.080.

Summary: See WSR 94-03-105.

Reasons Supporting Proposal: See WSR 94-03-105.

Name of Agency Personnel Responsible for Drafting: Evan Jacoby, 1111 Washington Street, Olympia, 902-2930; Implementation: Bruce Crawford, 1111 Washington Street, Olympia, 902-2325; and Enforcement: Dayna Matthews, 1111 Washington Street, Olympia, 902-2927.

Name of Proponent: Washington 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 WSR 94-03-105.

Proposal Changes the Following Existing Rules: See WSR 94-03-105.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. These rules apply to sport fishing.

Date of Intended Adoption: April 22, 1994.

March 25, 1994
 Bruce A. Crawford
 for Robert Turner
 Director

WSR 94-14-080
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed July 5, 1994, 3:39 p.m.]

Original Notice.

Title of Rule: Consumer access to vision care.

Purpose: Implementation of ESHB 1847, Consumer Access to Vision Care Act.

Statutory Authority for Adoption: Section 6, chapter 106, Laws of 1994.

Statute Being Implemented: Section 6, chapter 106, Laws of 1994.

Summary: These rules set forth the duties of practitioners, describe a prescription for corrective lenses, and set forth the process for transmittal and retention of patient information and records.

Reasons Supporting Proposal: For clarification and implementation of ESHB 1847.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, 1300 S.E. Quince Street, Olympia, WA 98504-7863, (206) 753-4614.

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: WAC 246-852-010 Duties of practitioners pursuant to chapter 106, Laws of 1996 [1994], sets forth duties of practitioners under Consumer Access to Vision Care Act; WAC 246-852-020 Prescription for corrective lenses, describes the content of a spectacle prescription; WAC 246-852-030 Transmittal of patient information and records, provides the process for transmittal of patient information; and WAC 246-852-040 Retention of patient contact lens records, sets forth a retention period and identifies records that are to be retained.

PROPOSED

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? Yes. A copy of the statement may be obtained by writing to: Ann Foster, Rules Coordinator, Department of Health, P.O. Box 47890, Olympia, WA 98504-7890, phone (206) 664-9381.

Hearing Location: Firgrove Business Park, Training Room (First Floor), 2413 Pacific Avenue, Olympia, WA, on August 11, 1994, at 10 a.m.

Assistance for Persons with Disabilities: Contact Judy Haenke by August 1, 1994, (206) 753-4614.

Submit Written Comments to: Ann Foster, P.O. Box 47890, Olympia, WA 98504-7890, by August 1, 1994.

Date of Intended Adoption: August 11, 1994.

July 5, 1994

Bruce Miyahara
Secretary

Chapter 246-852 WAC VISION CARE—CONSUMER ASSISTANCE

NEW SECTION

WAC 246-852-010 Duties of practitioners pursuant to chapter 106, Laws of 1994. (1) Prescribers, including ophthalmologists and optometrists, under chapters 18.53, 18.57, or 18.71 RCW:

(a) When performing an eye examination including the determination of the refractive condition of the eye, shall provide the patient a copy of the prescription at the conclusion of the eye examination.

(b) Shall, if requested by the patient, at the time of the eye examination, also determine the appropriateness of contact lenses wear and include a notation of "OK for Contacts" or similar language on the prescription if the prescriber would have fitted the patient him or herself, if the patient has no contraindications for contact lenses.

(c) Shall inform the patient that failure to complete the initial fitting and obtain a follow-up evaluation by a prescriber within six months of the exam will void the "OK for Contacts" portion of the prescription.

(d) Shall provide a verbal explanation to the patient if the prescriber determines the ocular health of the eye presents a contraindication for contact lenses. Documentation of contraindication will also be maintained in the patient's record.

(e) May exclude categories of contact lenses where clinically indicated.

(f) Shall not expire prescriptions in less than two years, unless a shorter time period is warranted by the ocular health of the eye. If a prescription is to expire in less than two years, an explanatory notation must be made by the prescriber in the patient's record and a verbal explanation given to the patient at the time of the eye examination.

(g) Shall comply with WAC 246-852-020.

(2) When conducting a follow-up evaluation for contact lenses fitted and dispensed by another practitioner, the prescriber:

(a) Will indicate on the written prescription, "follow-up completed" or similar language, and include his or her name and date of the follow-up;

(b) May charge a reasonable fee at the time the follow-up evaluation is performed.

(3) Opticians under chapter 18.34 RCW:

(a) May perform mechanical procedures and measurements necessary to adapt and fit contact lenses from a written prescription consisting of the refractive powers and a notation of "OK for Contacts" or similar language within six months of the eye examination date.

(b) Shall notify patients in writing that a prescriber is to evaluate the initial set of contact lenses on the eye within six months of the eye examination or the "OK for Contacts" portion of the prescription is void and replacement contact lenses will not be dispensed. The patient shall be requested to sign the written notification. The signed or unsigned notification will then be dated and placed in the patient's records.

(4) If the patient is fitted by a practitioner other than the initial prescriber, the contact lens specification shall be provided to the patient and to a prescriber performing the follow-up evaluation.

(5) When the follow-up evaluation is completed, the approved contact lens specifications shall become a valid prescription with the signature of the evaluating prescriber. The patient shall be able to obtain replacement lenses, from this finalized prescription, for the remainder of the prescription period.

(6) All fitters and dispensers shall distribute safety pamphlets to all contact lens patients designed to inform the patient of consumer and health-related decisions.

NEW SECTION

WAC 246-852-020 Prescription for corrective lenses.

(1) A prescription from a prescriber for corrective lenses shall at a minimum include:

(a) Patient name.

(b) Prescriber's name, address, professional license number, phone number and/or facsimile number.

(c) Spectacle prescription.

(d) Prescription expiration date.

(e) Date of eye exam.

(f) Signature of prescriber.

(2) If the patient requests contact lenses and has received an eye examination for contact lenses, the prescription shall also include:

(a) The notation "OK for Contacts" or similar language indicating there are no contraindications for contacts.

(b) Exclusion of categories of contact lenses, if any.

(c) Notation that the "OK for Contacts" portion of the prescription becomes void if the patient fails to complete the initial fitting and obtain the follow-up evaluation by a prescriber within the six-month time period.

(3) When the follow-up evaluation is completed, the approved contact lens specifications shall become a valid prescription with the signature of the evaluating prescriber. The patient shall be able to obtain replacement lenses, from this finalized prescription, for the remainder of the prescription period.

NEW SECTION

WAC 246-852-030 Transmittal of patient information and records. The finalized prescription of the contact lens specifications shall be available to the patient or the patient's designated practitioner for replacement lenses and may be transmitted by telephone facsimile or mail or provided directly to the patient in writing. The initial prescriber may request and receive the finalized contact lens specifications if the initial prescriber does not perform the fitting and follow-up evaluation.

NEW SECTION

WAC 246-852-040 Retention of patient contact lens records. (1) Practitioners shall maintain patient records for a minimum of five years. The records shall include the following which adequately reflects the level of care provided by the practitioners:

- (a) The written prescription.
- (b) Dioptic power.
- (c) Lens material, brand name and/or manufacturer.
- (d) Base curve (inside radius of curvature).
- (e) Diameter.
- (f) Color (when applicable).
- (g) Thickness (when applicable).
- (h) Secondary/peripheral curves (when applicable).
- (i) Special features equivalent to variable curves, fenestration or coating.
- (j) Suggested wearing schedule and care regimen.

(2) Opticians' records shall additionally include the following if fitting contact lenses:

Documentation of written advisement to the patient of the need to obtain a follow-up evaluation by a prescriber.

(3) Prescribers' records shall additionally include the following:

(a) Documentation of contraindications which would prohibit contact lens wear and documentation that contraindications were explained to the patient by the prescriber.

(b) Explanatory notation of the reasons why a prescription has an expiration date of less than two years, and documentation that the reasons were explained to the patient at the time of the eye examination.

WSR 94-14-081**PROPOSED RULES****DEPARTMENT OF HEALTH**

(Division of Community and Family Health)

[Filed July 5, 1994, 3:43 p.m.]

Original Notice.

Title of Rule: Tuberculosis skin testing, medication administration training.

Purpose: To enhance state and local authority to prevent and control Tuberculosis.

Statutory Authority for Adoption: ESB 6158.

Statute Being Implemented: ESB 6158.

Summary: New OSHA/WSHA [WISHA] requirements to reduce health worker's tuberculosis risks have increased demand for tuberculosis skin testing, well as emphasis on completion of therapy for those infected. This rule will

increase the number of health care workers who, once trained under this WAC, will be qualified to administer, read, and interpret tuberculosis skin tests and participate in tuberculosis directly observed therapy (DOT) and directly observed preventive therapy (DOPT), necessary to insure compliance with therapy.

Reasons Supporting Proposal: Revenue neutral, no fiscal impact; no small business impact; similar training not available; will broaden ability to conduct tuberculosis screening and control.

Name of Agency Personnel Responsible for Drafting: Gary Livingston, Melbourne Tower, (206) 464-5409; Implementation: Community and Family Health, Building 14 Airdustrial, 586-8344; and Enforcement: Washington State Board of Health, P.O. Box 47990, 586-8558.

Name of Proponent: Tuberculosis Control Program, Department of Health, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To comply with recent OSHA/WSHA [WISHA] requirements regarding the need for increased screening for tuberculosis, additional personnel with adequate training and authority in tuberculosis skin testing and DOT are necessary and required by ESB 6158.

Proposal Changes the Following Existing Rules: Several definitions added and/or updated; antiquated clinical care requirements updated housekeeping changes; no other major revisions.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This is a revenue neutral rule and will not have any small business impact.

Hearing Location: Clallam County Courthouse, 223 East 4th Street, Port Angeles, WA 98362, on August 10, 1994, at 9:40 a.m.

Assistance for Persons with Disabilities: Contact Gary Livingston by August 1, 1994, 464-5406.

Submit Written Comments to: Ann Foster, P.O. Box 47890, Olympia, WA 98504-7890, by July 27, 1994.

Date of Intended Adoption: August 10, 1994.

July 5, 1994

Sylvia Beck

Executive Director

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-170-010 Definitions. (1) (~~"Primary physician"~~) "Principal health care provider" shall mean the (~~(physician)~~) provider who assumes the day-to-day medical care of a tuberculosis patient.

(2) "Chest clinic" shall mean an outpatient medical activity provided for persons suffering from or suspected to be suffering from disease primarily affecting the lungs.

(3) "Inpatient" shall mean medical care furnished in a hospital, nursing home or other organized living group in which the patient is a resident.

(4) "Outpatient" shall mean medical care furnished to patients who are residents in their homes or other places of residence.

(5) "Surveillance" shall mean an organized system of medical observation of persons at risk of developing active disease.

(6) "Suspect" shall mean a person who may possibly have a disease condition.

(7) "Epidemiological investigation" shall mean those specific actions taken by physicians or nurses which are taken to determine the extent of spread of infection from an active case of tuberculosis.

(8) "Register" shall mean the listing of all tuberculosis patients as required by WAC 246-170-080, now or as hereafter amended.

(9) "UV generator" shall mean a properly mounted fluorescent tube which electrically produces ultraviolet radiation with bacteriocidal properties.

(10) "Slide microscopy" shall mean the diagnostic laboratory test in which body fluids such as sputum are examined for the presence of ~~((pathogenic bacteria))~~ acid-fast bacilli.

(11) "Prophylaxis" shall mean either primary treatment to prevent infection in an uninfected person or secondary treatment to ~~((treat))~~ prevent disease in an infected person.

(12) "Infectious" shall mean the state of being the possible transmitter of tuberculosis infection to other persons.

(13) "Department" shall mean the Washington state department of health.

(14) "Tuberculin skin test" means the introduction of purified protein derivative (PPD) by the Mantoux method.

(15) "Tuberculosis community health worker" means an unlicensed person trained and working under a program established by a state or local health officer to control tuberculosis.

(16) "Personal protective equipment" means respirators as required by the department of labor and industries in chapter 296-62 WAC.

(17) "Directly observed therapy (DOT)" and "directly observed preventive therapy (DOPT)" mean providing medications to patients and observing ingestion of medications by patients.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-170-030 Local health department responsibilities. (1) Each health department shall staff and provide a chest clinic under the supervision of a physician specializing in pulmonary diseases. Sufficient nursing and clerical personnel shall be provided to furnish supervision of post-inpatient treatment, post-treatment surveillance, suspect evaluation, epidemiological investigation, contact workup and prophylaxis. A health department unable to provide these services shall contract for such services.

(2) A register must be kept of all known cases of tuberculosis within the jurisdiction in accordance with WAC 246-170-080, now or as hereafter amended. Reports of all newly discovered cases of tuberculosis must be made promptly to the department ~~((of social and health services))~~.

(3) One or more physicians qualified to treat tuberculosis as determined by the local health officer with the advice of the state tuberculosis advisory committee shall be secured to assume the primary inpatient and/or outpatient care of

patients. A tuberculosis clinical consultant, similarly endorsed, shall be available to provide review in case conferences of diagnoses, plans of management and dates of discharge.

(4) The health department shall also provide by contract appropriate inpatient care. Public health nursing services sufficient to meet the needs of outpatients including home care programs shall be available. Social service is necessary, and if not available within the department, shall be arranged.

NEW SECTION

WAC 246-170-035 Tuberculin skin testing and medication administration training. The department shall make available a course to be used by the state tuberculosis control program or local health departments to train tuberculosis community health workers.

This course shall include, but not be limited to the understanding of:

(1) Tuberculosis infection and disease, including prevention, transmission, pathogenesis, diagnosis and treatment; and

(2) Practice in the administration, reading, and interpretation of the Mantoux tuberculin skin test; and

(3) Practice in the performance of oral directly observed therapy and directly observed preventive therapy; and

(4) Adverse reactions to tuberculosis medications and how to monitor patients for adverse reactions; and

(5) Appropriate referral mechanisms for positive skin tests, adverse reactions, or other medical needs; and

(6) Personal health and safety requirements including the use of personal protective equipment.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-170-050 Infection control. (1) A hospital which contracts to treat tuberculosis patients shall have an infection control committee, published infection control policies for nursing and laboratory services, a staff health surveillance program including skin testing and ~~((periodic))~~ x-ray examination, and continuing staff education. Mycobacteriological culture, identification and sensitivity testing are procedures not recommended for hospital laboratories; these services are available in the state public health laboratory.

(2) Nursing homes caring for tuberculosis patients shall have continuing staff education, published infection control policies, and a staff health surveillance program.

AMENDATORY SECTION (Amending Order 354B, filed 4/1/93, effective 5/2/93)

WAC 246-100-011 Definitions. The following definitions shall apply in the interpretation and enforcement of chapter 246-100 WAC:

(1) "Acquired immunodeficiency syndrome (AIDS)" means illness, disease, or conditions defined and described by the Centers for Disease Control, U.S. Public Health Service, Morbidity and Mortality Weekly Report (MMWR), December 18, 1992, Volume 41, Number RR-17.

(2) "AIDS counseling" means counseling directed toward:

(a) Increasing the individual's understanding of acquired immunodeficiency syndrome; and

(b) Assessing the individual's risk of HIV acquisition and transmission; and

(c) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection.

(3) "Board" means the Washington state board of health.

(4) "Carrier" means a person harboring a specific infectious agent and serving as a potential source of infection to others, but who may or may not have signs and/or symptoms of the disease.

(5) "Case" means a person, alive or dead, having been diagnosed to have a particular disease or condition by a health care provider with diagnosis based on clinical or laboratory criteria or both.

(6) "Category A disease or condition" means a reportable disease or condition of urgent public health importance, a case or suspected case of which must be reported to the local or state health officer immediately at the time of diagnosis or suspected diagnosis.

(7) "Category B disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer no later than the next working day following date of diagnosis.

(8) "Category C disease or condition" means a reportable disease or condition of public health importance, a case of which must be reported to the local health officer within seven days of diagnosis.

(9) "Child day care facility" means an agency regularly providing care for a group of children for less than twenty-four hours a day and subject to licensing under chapter 74.15 RCW.

(10) "Communicable disease" means an illness caused by an infectious agent which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission via an intermediate host or vector, food, water, or air.

(11) "Contact" means a person exposed to an (~~infected~~) infectious person, animal, or contaminated environment which might provide an opportunity to acquire the infection.

(12) "Department" means the Washington state department of (~~social and~~) health (~~services~~).

(13) "Detention" or "detainment" means physical restriction of activities of an individual by confinement, consistent with WAC 246-100-206(8), for the purpose of monitoring and eliminating behaviors presenting imminent danger to public health and may include physical plant, facilities, equipment, and/or personnel to physically restrict activities of the individual to accomplish such purposes.

(14) "Food handler" means any person preparing, processing, handling, or serving food or beverages for people other than members of his or her household.

(15) "Food service establishment" means any establishment where food or beverages are prepared for sale or service on the premises or elsewhere, and any other establishment or operation where food is served or provided for the public with or without charge.

(16) "Health care facility" means:

(a) Any facility or institution licensed under chapter 18.20 RCW, boarding home, chapter 18.46 RCW, maternity homes, chapter 18.51 RCW, nursing homes, chapter 70.41 RCW, hospitals, or chapter 71.12 RCW, private establish-

ments, clinics, or other settings where one or more health care providers practice; and

(b) In reference to a sexually transmitted disease, other settings as defined in chapter 70.24 RCW.

(17) "Health care provider" means any person having direct or supervisory responsibility for the delivery of health care or medical care who is:

(a) Licensed or certified in this state under Title 18 RCW; or

(b) Is military personnel providing health care within the state regardless of licensure.

(18) "HIV testing" means conducting a laboratory test or sequence of tests to detect the human immunodeficiency virus (HIV) or antibodies to HIV performed in accordance with requirements to WAC 246-100-207. To assure that the protection, including but not limited to, pre- and post-test counseling, consent, and confidentiality afforded to HIV testing as described in chapter 246-100 WAC also applies to the enumeration of CD4+ (T4) lymphocyte counts (CD4+ counts) and CD4+ (T4) percents of total lymphocytes (CD4+ percents) when used to diagnose HIV infection, CD4+ counts and CD4+ percents will be presumed HIV testing except when shown by clear and convincing evidence to be for use in the following circumstances:

(a) Monitoring previously diagnosed infection with HIV;

(b) Monitoring organ or bone marrow transplants;

(c) Monitoring chemotherapy;

(d) Medical research; or

(e) Diagnosis or monitoring of congenital immunodeficiency states or autoimmune states not related to HIV.

The burden of proving the existence of one or more of the circumstances identified in (a) through (e) of this subsection shall be on the person asserting such existence.

(19) "Infection control measures" means the management of infected persons, persons suspected to be infected, and others in such a manner as to prevent transmission of the infectious agent.

(20) "Isolation" means the separation or restriction of activities of (~~infected~~) infectious persons, or of persons suspected to be (~~infected~~) infectious, from other persons to prevent transmission of the infectious agent.

(21) "Laboratory director" means the director or manager, by whatever title known, having the administrative responsibility in any medical laboratory.

(22) "Local health department" means the city, town, county, or district agency providing public health services to persons within the area, as provided in chapter 70.05 RCW and chapter 70.08 RCW.

(23) "Local health officer" means the individual having been appointed under chapter 70.05 RCW as the health officer for the local health department, or having been appointed under chapter 70.08 RCW as the director of public health of a combined city-county health department.

(24) "Medical laboratory" means any facility analyzing specimens of original material from the human body for purposes of patient care.

(25) "Nosocomial infection" means an infection acquired in a hospital or other health care facility.

(26) "Outbreak" means the occurrence of cases of a disease or condition in any area over a given period of time in excess of the expected number of cases.

(27) "Post-test counseling" means counseling after the HIV test when results are provided and directed toward:

- (a) Increasing the individual's understanding of human immunodeficiency virus (HIV) infection;
- (b) Affecting the individual's behavior in ways to reduce the risk of acquiring and transmitting HIV infection;
- (c) Encouraging the individual testing positive to notify persons with whom there has been contact capable of spreading HIV;
- (d) Assessing emotional impact of HIV test results; and
- (e) Appropriate referral for other community support services.

(28) "Pretest counseling" means counseling provided prior to HIV testing and aimed at:

- (a) Helping an individual to understand:
 - (i) Ways to reduce the risk of human immunodeficiency virus (HIV) transmission;
 - (ii) The nature, purpose, and potential ramifications of HIV testing;
 - (iii) The significance of the results of HIV testing; and
 - (iv) The dangers of HIV infection; and
- (b) Assessing the individual's ability to cope with the results of HIV testing.

(29) "Principal health care provider" means the attending physician or other health care provider recognized as primarily responsible for diagnosis and treatment of a patient or, in the absence of such, the health care provider initiating diagnostic testing or therapy for a patient.

(30) "Quarantine" means the separation or restriction on activities of a person having been exposed to or infected with an infectious agent, to prevent disease transmission.

(31) "Reportable disease or condition" means a disease or condition of public health importance, a case of which, and for certain diseases, a suspected case of which, must be brought to the attention of the local health officer.

(32) "School" means a facility for programs of education as defined in RCW 28A.210.070 (preschool and kindergarten through grade twelve).

(33) "Sexually transmitted disease (STD)" means a bacterial, viral, fungal, or parasitic disease or condition which is usually transmitted through sexual contact, including:

- (a) Acute pelvic inflammatory disease;
- (b) Chancroid;
- (c) Chlamydia trachomatis infection;
- (d) Genital and neonatal herpes simplex;
- (e) Genital human papilloma virus infection;
- (f) Gonorrhea;
- (g) Granuloma inguinale;
- (h) Hepatitis B infection;
- (i) Human immunodeficiency virus infection (HIV) and acquired immunodeficiency syndrome (AIDS);
- (j) Lymphogranuloma venereum;
- (k) Nongonococcal urethritis (NGU); and
- (l) Syphilis.

(34) "State health officer" means the person designated by the secretary of the department to serve as statewide health officer, or, in the absence of such designation, the person having primary responsibility for public health matters in the state.

(35) "Suspected case" means a person whose diagnosis is thought likely to be a particular disease or condition with

suspected diagnosis based on signs and symptoms, laboratory evidence, or both.

(36) "Unusual communicable disease" means a communicable disease which is not commonly seen in the state of Washington but which is of general public health concern including, but not limited to, Lassa fever, smallpox, typhus, and yellow fever.

(37) "Veterinarian" means an individual licensed under provisions of chapter 18.92 RCW, veterinary medicine, surgery, and dentistry and practicing animal health care.

AMENDATORY SECTION (Amending Order 354B, filed 4/1/93, effective 5/2/93)

WAC 246-100-076 Reportable diseases and conditions. (1) The following diseases and conditions shall be reported as individual case reports to the local health department in accordance with requirements and procedures described throughout chapter 246-100 WAC:

(a) Category A diseases require an immediate report at the time a case is suspected or diagnosed and include:

- (i) Anthrax,
- (ii) Botulism (including food-borne, infant, and wound),
- (iii) Cholera,
- (iv) Diphtheria, noncutaneous,
- (v) Measles (rubeola),
- (vi) Paralytic shellfish poisoning,
- (vii) Plague,
- (viii) Poliomyelitis, and
- (ix) Rabies.

(b) Category B diseases or conditions require a case report within one day of diagnosis and include:

- (i) Brucellosis,
- (ii) Gastroenteritis of suspected food-borne or water-borne origin,
- (iii) Hemophilus influenzae invasive disease (excluding otitis media) in children age five years and under,
- (iv) Hepatitis A and B, acute,
- (v) Leptospirosis,
- (vi) Listeriosis,
- (vii) Meningococcal disease,
- (viii) Paratyphoid fever (see salmonellosis),
- (ix) Pertussis,
- (x) Rubella, including congenital,
- (xi) Salmonellosis, including paratyphoid fever and typhoid fever,
- (xii) Shigellosis,
- (xiii) Syphilis—primary, secondary, or congenital (for other, see Category C),
- (xiv) (~~Typhoid fever, including carrier (see salmonellosis);~~

~~(xv) Unusual communicable disease (see definition WAC 246-100-011);~~) Tuberculosis (suspected or diagnosed),
(xv) Typhoid fever, including carrier (see salmonellosis),
(xvi) Unusual communicable disease (see definition WAC 246-100-011).

(c) Category C diseases or conditions require a case report within seven days of diagnosis and include:

- (i) Acquired immunodeficiency syndrome (AIDS) class IV human immunodeficiency virus (HIV, HTLV III, or LAV) disease (as classified by the Centers for Disease Control, U.S. Public Health Service, Morbidity and Mortality

Weekly Report (MMWR), May 23, 1986, Volume 35, Number 20), and class P-2 pediatric HIV illness (as classified by the Centers for Disease Control, U.S. Public Health Service, MMWR, April 24, 1987, Volume 36, Number 15),

- (ii) Amebiasis,
- (iii) Campylobacteriosis,
- (iv) Chancroid,
- (v) Chlamydia trachomatis infection,
- (vi) Ecoli 0157:H7 infection,
- (vii) Encephalitis, viral,
- (viii) Giardiasis,
- (ix) Gonorrhea,
- (x) Granuloma inguinale,
- (xi) Herpes simplex, initial genital infection,
- (xii) Herpes simplex, neonatal,
- (xiii) Hepatitis non-A, non-B, and unspecified,
- (xiv) Kawasaki syndrome,
- (xv) Legionellosis,
- (xvi) Leprosy (Hansen's disease),
- (xvii) Lyme disease,
- (xviii) Lymphogranuloma venereum,
- (xix) Malaria,
- (xx) Mycobacteriosis, including tuberculosis,
- (xxi) Mumps,
- (xxii) Nongonococcal urethritis,
- (xxiii) Pelvic inflammatory disease, acute,
- (xxiv) Pseudomonas folliculitis of suspected waterborne origin,
- (xxv) Psittacosis,
- (xxvi) Q fever,
- (xxvii) Relapsing fever (borreliosis),
- (xxviii) Reye Syndrome,
- (xxix) Rheumatic fever,
- (xxx) Rocky mountain spotted fever,
- (xxxi) Syphilis—other (see also Category B),
- (xxxii) Tetanus,
- (xxxiii) Tick paralysis,
- (xxxiv) Toxic shock syndrome,
- (xxxv) Trichinosis,
- (xxxvi) ~~((Tuberculosis,~~
- ~~(xxxvii)))~~ Tularemia,
- ~~((xxxviii)))~~ (xxxvii) Vibriosis,
- ~~((xxxix)))~~ (xxxviii) Yersiniosis, and
- ~~((xxxix)))~~ (xxxix) Severe adverse reaction to immunization.

(2) Any cluster or pattern of cases, suspected cases, deaths, or increased incidence of any disease or condition beyond that expected in a given period which may indicate an outbreak, epidemic, or related public health hazard shall be reported immediately by telephone to the local health officer. Such patterns include, but are not limited to, suspected or confirmed outbreaks of food borne or waterborne disease, chickenpox, influenza, viral meningitis, nosocomial infection suspected due to contaminated products or devices, or environmentally related disease.

(3) Local health officers may require reporting of additional diseases and conditions.

AMENDATORY SECTION (Amending Order 354B, filed 4/1/93, effective 5/2/93)

WAC 246-100-236 Duties of laboratories—Reporting of laboratory results indicative of certain reportable diseases. (1) By December 31, 1987, medical laboratories shall:

(a) Report each positive culture or other suggestive test results to the local health officer by phone, written report, or submission of specimen within two working days, unless specified otherwise, for:

- (i) Anthrax (*Bacillus anthracis*),
- (ii) Botulism (*Clostridium botulinum*),
- (iii) Cholera (*Vibrio cholerae*),
- (iv) Diphtheria (*Corynebacterium diphtheriae*) - toxigenic strains,
- (v) Gonorrhea (*Neisseria gonorrhoeae*) (report within seven days),
- (vi) Measles (rubeola) (measles virus),
- (vii) Plague (*Yersinia pestis*),
- (viii) Rabies (rabies virus),
- (ix) Brucellosis (*Brucella* species),
- (x) Leptospirosis (*Leptospira interrogans*),
- (xi) Listeria infection of blood or spinal fluid (*Listeria monocytogenes*),
- (xii) Meningococcal infection of blood or spinal fluid (*N. meningitidis*),
- (xiii) Pertussis (*Bordetella pertussis*),
- (xiv) Salmonellosis (*Salmonella* species),
- (xv) Shigellosis (*Shigella* species), and
- (xvi) Hepatitis A (positive anti-HAV IgM)₂,
- (xvii) Mycobacteriosis.

(b) Send a copy of the state form accompanying specimen submitted as required in WAC 246-100-231 or identifying information including:

- (i) Type of specimen tested (e.g., serum or sputum),
- (ii) Test result,
- (iii) Name of reporting laboratory,
- (iv) Date of report,
- (v) Name of requesting health care provider or health care facility, and
- (vi) Name of patient.

(2) By December 31, 1987, medical laboratories shall report positive cultures or other suggestive test results for chlamydial infection (*Chlamydia trachomatis*) to local health departments monthly including either:

(a) Identifying information specified in subsection (1)(b)(i-vi) of this section, or

(b) Aggregate numbers of positive tests including age, sex, and site of infection when known.

(3) Medical laboratories shall label or stamp reports appropriately with information indicating "reportable disease" and the telephone number of the local health department, if such labels or stamps are provided by the local health department.

(4) State and local health officers and health departments receiving reports from medical laboratories shall:

(a) Allow time for the laboratory to notify the principal health care provider prior to contact if:

- (i) Delay is unlikely to jeopardize public health, and
- (ii) The laboratory requests a delay.

(b) Try to contact the principal health care provider and discuss circumstances prior to contact of a patient when possible.

(5) By April 15, 1993, medical laboratories performing CD4+ (T4) tests shall submit to the state HIV/AIDS office quarterly reports on the enumeration of CD4+ (T4) lymphocyte counts (CD4+ counts) and CD4+ (T4) percents of total lymphocytes (CD4+ percents) for specimens submitted after January 1, 1993, of patients aged thirteen or older with CD4+ counts less than two hundred or CD4+ percents less than fourteen. Laboratories may, but are not required to, exclude information concerning specimens which are unrelated to HIV infection or performed in conjunction with medical research, but otherwise shall report the following information:

(a) Patient-specific identifier or anonymous code or, if authorized by the patient, the patient's name submitted to the laboratory; and

(b) Name of the patient's health care provider; and

(c) Address of patient's health care provider; and

(d) CD4+ count (and CD4+ percent if available); and

(e) Date of CD4+ count or CD4+ percent.

WSR 94-14-085

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 94-18—Filed July 5, 1994, 3:57 p.m.]

Original Notice.

Title of Rule: Chapter 173-563 WAC, Instream resources protection program for the main stem Columbia River in Washington state; and chapter 173-564 WAC, Water resources management program for the main stem of the Snake River in Washington state.

Purpose: The rules amend chapters 173-563 and 173-564 WAC to extend in existing moratorium on new appropriations from the unappropriated waters of the Columbia River and Snake River main stems, with added clarification and additional exceptions.

Statutory Authority for Adoption: Chapters 34.05, 43.21A, 43.27A, 90.03, 90.44 and 90.54 RCW, and chapter 173-500 WAC.

Statute Being Implemented: Chapter 90.54 RCW.

Summary: The proposed rules amend chapters 173-563 and 173-564 WAC to extend an existing moratorium on new appropriations from the unappropriated waters of the Columbia River and Snake River main stems, with added clarification and additional exceptions.

Reasons Supporting Proposal: There is an ongoing regional effort to acquire adequate flows for endangered and threatened fish stocks in the Columbia Basin. This effort has intensified as a result of continuing drought, petitions for additional listings under the Endangered Species Act and a recent federal court ruling that proposed modifications to the operation of the hydroelectric system on the Columbia and Snake rivers are not sufficient to ensure fish survival. The moratorium on further appropriations from the Columbia Basin is part of the regional effort.

Name of Agency Personnel Responsible for Drafting: Thom Lufkin, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600 (Lacey), (206) 407-6631; Imple-

mentation: Carol Fleskes, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600 (Lacey), (206) 407-6602; and Enforcement: Doug Clausing, Central Regional Office (Yakima), (509) 457-7140 and Flora Goldstein, Eastern Regional Office (Spokane), (509) 456-7693.

Name of Proponent: Washington State Department of Ecology, public and governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rules amend chapters 173-563 and 173-564 WAC to extend an existing moratorium on new appropriations from the unappropriated waters of the Columbia River and Snake River main stems, with added clarification and additional exceptions. Events described above continue to place into question whether water is available for new appropriations from the Columbia and Snake rivers and whether such appropriations would impair existing rights or be detrimental to the public interest. Ecology is in the process of answering these questions. The evolving nature of the situation has made this process extremely difficult. The extension of the moratorium is intended to ensure that the department has adequate time to accomplish this task and to take advantage of new information emerging from the regional activities underway to address the endangered fish issue.

Proposal Changes the Following Existing Rules: The existing rules are changed in the following ways: Water can be used for nonrecurring temporary projects for up to six months, rather than four (with a possible six month, rather than four month, extension); additional exceptions for emergency public health and safety needs and uses benefiting weak fish stocks are added; and additional changes are made to clarify the intent of the rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Less than ten percent of any industry is likely to be affected by the proposed action. The analysis prepared for this proposal can be obtained by calling Thom Lufkin at (206) 407-6631.

Hearing Location: Bridgeport Town Hall, Council Chambers, 1206 Columbia Avenue, Bridgeport, WA, on August 9, 1994, at 7:30 p.m.; at the PUD No. 1 of Okanogan County (Auditorium), 1331 2nd North, Okanogan, on August 10, 1994, at 12:00 noon; at the Kiwanas Hall, 290 East Tessie Street, Republic (near courthouse), on August 10, 1994, at 7:30 p.m.; at the City Hall (council chambers), 170 South Oak, Colville, on August 11, 1994, at 11:00 a.m.; at the Lincoln County Courthouse (commissioner's room), 450 Logan, Davenport, on August 11, 1994, at 7:30 p.m.; and at the Law and Justice Center, Room 242 (multi-purpose room) ext. 428, Corner of First and "C" streets, on August 12, 1994, at 12:00 noon. There will also be hearings in the following counties: Asotin, Benton, Chelan, Columbia, Franklin, Garfield, Kittitas, Klickitat, Skamania, Walla Walla, Whitman and Yakima. The specific locations, dates and times of these hearings will be published in the August 3, 1994, Washington State Register.

Assistance for Persons with Disabilities: Contact Thom Lufkin by July 29, 1994, TDD (206) 407-6006, or (206) 407-6631.

Submit Written Comments to: Thom Lufkin, Department of Ecology, Water Resources Program, P.O. Box

47600, Olympia, WA 98504-7600, FAX (206) 407-7162, by September 9, 1994.

Date of Intended Adoption: October 5, 1994.

July 5, 1994
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-20, filed 12/3/92)

WAC 173-563-015 Withdrawal of unappropriated waters (1) The National Marine Fisheries Service (NMFS) listed Snake River sockeye salmon as endangered under the federal Endangered Species Act on December 20, 1991. NMFS listed Snake River spring/summer and fall chinook salmon as threatened under the Act on May 17, 1992. Since then, ~~((N))~~new information and changing conditions continue to place into question whether sufficient information and data is available for making sound decisions on water availability and the public interest for additional appropriations from the main stem of the Columbia River. ~~((These changing conditions include the listing on December 20, 1991 of Snake River Sockeye Salmon as endangered and the May 17, 1992 listing of Snake River Spring/Summer and Fall Chinook Salmon as threatened under the Federal Endangered Species Act and related federal, regional, and state activities to assure the protection of Columbia basin salmon runs.))~~ In response to the petitions for listing, the Northwest Governors directed the regional Northwest Power Planning Council to develop a plan for the recovery of the petitioned species and other weak fish stocks in the Columbia Basin. In late 1992 the Council finalized its Strategy for Salmon, which cautioned the states against continuing to allow new appropriations at the same time that there is a regional effort to acquire additional flows for imperiled fish stocks. This regional effort has greatly intensified as a result of additional petitions for Endangered Species Act listings in the basin, consecutive dry years and a 1994 federal court decision that the hydroelectric system operations plan approved by NMFS and the federal operating agencies was not adequate.

(2) Pursuant to subsection (1) of this section, the waters of the main stem of the Columbia River that are unappropriated by water rights for which applications were accepted for filing by the department prior to December 20, 1991 are withdrawn from further appropriation, except that the department may issue a permit to withdraw water for:

(a) Applications filed by the United States for uses of water withdrawn for the Columbia Basin Project with a priority date of 1938 under Chapter 90.40 RCW;

(b) Nonrecurring temporary projects for up to ~~((four))~~ six months duration, with a possible extension of no more than ~~((four))~~ six additional months (applications for extensions must include adequate justification for the extension and must demonstrate that reasonable efforts are being made to use the water for the project as efficiently as possible); ~~((and))~~

(c) Nonconsumptive uses which, for the purposes of this section, are defined as uses where:

(i) There is no diversion from the water source; or

(ii) The water is diverted and returned immediately to the source at the point of diversion following its use, in the

same quantity as diverted and meeting water quality standards for the source~~((-))~~;

(d) Uses which are necessary for emergency public health and safety needs, when all other reasonable methods of obtaining water (e.g., conservation, efficiencies, etc.) have been exhausted; and

(e) Uses which are specifically intended to benefit weak fish stocks.

(3) All water right applications which the department accepted for filing prior to December 20, 1991 for diversion or pumping of surface water from the main stem of the Columbia River, or for withdrawal of ground water which is part of ~~((or tributary to))~~ the main stem of the Columbia River, shall be processed in accordance with existing policies and procedures and are not subject to this withdrawal of waters.

(4) With the exceptions specified in subsection (2) of this section, all water right applications which the department accepted or accepts for filing on or after December 20, 1991 ~~((for))~~ which would result in the diversion or pumping of surface water from the main stem of the Columbia River, regardless of the point of diversion specified in the water right application, ~~((or for withdrawal of ground water which is part of or tributary to the main stem of the Columbia River where such withdrawal requires a permit under RCW 90.44.050.))~~ are subject to this withdrawal of waters. These applications ~~((and))~~ will be acted upon, without loss of priority date, after the expiration of the withdrawal of waters.

(5) With the exceptions specified in subsection (2) of this section, all water right applications which the department accepted or accepts for filing on or after December 20, 1991 which require a permit under RCW 90.44.050 and would result in the withdrawal of ground water which is part of the main stem of the Columbia River are subject to this withdrawal of waters. All applications will be evaluated on a case-by-case basis. Applications determined to be subject to the withdrawal will be acted upon, without loss of priority date, after the expiration of the withdrawal of waters.

~~((5) The department shall inform applicants of the status of their applications under this section.))~~

(6) This section will expire ~~((on June 30, 1994 or))~~ upon adoption of a new instream resources protection program for the main stem Columbia River. ~~((further amendment of the chapter, whichever occurs first.))~~

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

AMENDATORY SECTION (Amending Order 92-21, filed 12/3/92)

WAC 173-564-040 Withdrawal of unappropriated waters (1) The National Marine Fisheries Service (NMFS) listed Snake River sockeye salmon as endangered under the federal Endangered Species Act on December 20, 1991. NMFS listed Snake River spring/summer and fall chinook salmon as threatened under the Act on May 17, 1992. Since then, ~~((N))~~new information and changing conditions continue to place into question whether sufficient information and data is available for making sound decisions on water availability and the public interest for additional appropri-

tions from the main stem of the Snake River. (~~These changing conditions include the listing on December 20, 1991 of Snake River Sockeye Salmon as endangered and the May 17, 1992 listing of Snake River Spring/Summer and Fall Chinook Salmon as threatened under the Federal Endangered Species Act and related federal, regional and state activities to assure the protection of Snake basin salmon runs.~~) In response to the petitions for listing, the Northwest Governors directed the regional Northwest Power Planning Council to develop a plan for the recovery of the petitioned species and other weak fish stocks in the Columbia Basin, including the Snake River. In late 1992 the Council finalized its Strategy for Salmon, which cautioned the states against continuing to allow new appropriations at the same time that there is a regional effort to acquire additional flows for imperiled fish stocks. This regional effort has greatly intensified as a result of additional petitions for Endangered Species Act listings in the basin, consecutive dry years and a 1994 federal court decision that the hydroelectric system operations plan approved by NMFS and the federal operating agencies was not adequate.

(2) Pursuant to subsection (1) of this section, the waters of the main stem of the Snake River that are unappropriated by water rights for which applications were accepted for filing by the department prior to December 20, 1991 are withdrawn from further appropriation, except that the department may issue a permit to withdraw water for:

(a) Nonrecurring temporary projects for up to ~~(four)~~ six months duration, with a possible extension of no more than ~~(four)~~ six additional months (applications for extensions must include adequate justification for the extension and must demonstrate that reasonable efforts are being made to use the water for the project as efficiently as possible); ~~(and)~~

(b) Nonconsumptive uses which, for the purposes of this section, are defined as uses where:

(i) There is no diversion from the water source; or

(ii) The water is diverted and returned immediately to the source at the point of diversion following its use, in the same quantity as diverted and meeting water quality standards for the source(-);

(c) Uses which are necessary for emergency public health and safety needs, when all other reasonable methods of obtaining water (e.g., conservation, efficiencies, etc.) have been exhausted; and

(d) Uses which are specifically intended to benefit weak fish stocks.

(3) All water right applications which the department accepted for filing prior to December 20, 1991 for diversion or pumping of surface water from the main stem of the Snake River, or for withdrawal of ground water which is part of ~~(or tributary to)~~ the main stem of the Snake River, shall be processed in accordance with existing policies and procedures and are not subject to this withdrawal of waters.

(4) With the exceptions specified in subsection (2) of this section, all water right applications which the department accepted or accepts for filing on or after December 20, 1991 ~~(for)~~ which would result in the diversion or pumping of surface water from the main stem of the Snake River, regardless of the point of diversion specified in the water right application, ~~(or for withdrawal of ground water which is part of or tributary to the main stem of the Snake River~~

where such withdrawal requires a permit under RCW 90.44.050;)) are subject to this withdrawal of waters. These applications ~~(and)~~ will be acted upon, without loss of priority date, after the expiration of the withdrawal of waters.

(5) With the exceptions specified in subsection (2) of this section, all water right applications which the department accepted or accepts for filing on or after December 20, 1991 which require a permit under RCW 90.44.050 and would result in the withdrawal of ground water which is part of the main stem of the Snake River are subject to this withdrawal of waters. All applications will be evaluated on a case-by-case basis. Applications determined to be subject to the withdrawal will be acted upon, without loss of priority date, after the expiration of the withdrawal of waters.

~~((5) The department shall inform applicants of the status of their applications under this section.))~~

(6) This section will expire ~~(on June 30, 1994 or)~~ upon adoption of an instream resources protection program for the main stem Snake River. ~~(further amendment of the chapter, whichever occurs first.)~~

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 94-14-086
PROPOSED RULES
DEPARTMENT OF ECOLOGY
 [Order 94-27—Filed July 5, 1994, 4:01 p.m.]

Original Notice.

Title of Rule: City of Renton shoreline master program.

Purpose: Amend WAC 173-19-2520.

Statutory Authority for Adoption: Chapter 90.58 RCW.

Statute Being Implemented: Chapter 90.58 RCW.

Summary: Amends existing Renton shoreline master program by clarification of shoreline jurisdiction, adding environment designations, and improving procedures and definitions.

Reasons Supporting Proposal: Request for amendment by city of Renton.

Name of Agency Personnel Responsible for Drafting: Barry Wenger, NWRO, 3190 160th Avenue S.E., Bellevue, WA, (206) 649-7244; Implementation and Enforcement: Jay Shepard, HQ, 300 Desmond Avenue, Lacey, WA, (206) 407-7280.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This amendment will designate a portion of Springbrook Creek as a shoreline of the state. Portions of Springbrook Creek will be given a shoreline environment designation of Urban with the remainder, including all associated wetland areas in the floodplain, being designated conservancy shoreline environment. The portions of the floodplain which are not including or connecting the creek and its associated marshes, bogs and swamps will be removed from shoreline jurisdiction. Permit appeals proce-

dures are also revised. Anticipated effects are simpler permit review and improved environmental protection.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Chapter 19.85 RCW, the Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than 20% of all industries or more than 10% of any one industry. This amendment proposed by the city of Renton does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: Renton District Court Building Portable, 200 Mill Avenue South, Renton, WA 98055, on August 11, 1994, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Kris Jessett by TDD (206) 649-4259, or (206) 649-7011.

Submit Written Comments to: Linda Whitcher, FAX (206) 407-6535, by August 22, 1994.

Date of Intended Adoption: September 7, 1994.

July 5, 1994

Mary Riveland

Director

AMENDATORY SECTION (Amending Order 90-08, filed 8/22/90, effective 9/22/90)

WAC 173-19-2520 Renton, city of. City of Renton master program approved January 23, 1976. Revision approved February 23, 1977. Revision approved September 12, 1984. Revision approved August 22, 1990. Revision approved September 7, 1994.

**WSR 94-14-087
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-55—Filed July 5, 1994, 4:45 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.

Purpose: Amend WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment changes the regulation of an early muzzleloader elk hunt in GMU 368 from spike bull or antlerless to spike bull only.

Reasons Supporting Proposal: This change will correct an error in the regulation of a muzzleloader hunt. The error could have resulted in the excess harvest, causing a significant decline in the local elk herd.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and Enforcement: Dayna Matthews, Assistant Director, Enforcement Program, 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: This amendment changes the regulation of an early muzzleloader elk hunt in GMU 368 from spike bull or antlerless to spike bull only. This change will correct an error in the regulation of a muzzleloader hunt. The amendment will conserve and protect elk while providing public hunting recreation.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small business economic impact statement was necessary because no significant cost will occur to any industry.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by August 5, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by August 5, 1994.

Date of Intended Adoption: August 13, 1994.

July 5, 1994

Dayna Matthews

Assistant Director

for Evan Jacoby

Legal Counsel

AMENDATORY SECTION [(Amending Order 656, filed 5/10/94)]

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 branched 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

PROPOSED

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

	<u>1994</u>	<u>1995</u>	<u>1996</u>
Blue Mountains			
BE - Blue Mountains Early Elk Tag	Oct. 26-Nov. 6	Oct. 25-Nov. 5	Oct. 30-Nov. 10
BL - Blue Mountains Late Elk Tag	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10
Colockum			
CE - Colockum Early Elk Tag	Oct. 26-Nov. 3	Oct. 26-Nov. 3	Oct. 26- Nov. 3
CL - Colockum Late Elk Tag	Oct. 29-Nov. 3	Oct. 29-Nov. 3	Oct. 29-Nov. 3
Yakima			
YE - Yakima Early Elk Tag	Nov. 5-15	Nov. 5-15	Nov. 5-15
YL - Yakima Late Elk Tag	Nov. 8-15	Nov. 8-15	Nov. 8-15
Western Washington			
WE - Western Washington Early Elk Tag	Nov. 2-13	Nov. 1-13	Nov. 6-17
WL - Western Washington Late Elk Tag	Nov. 5-13	Nov. 4-13	Nov. 9-17

Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person.

Hunting Method: Bow and arrow only.

Special Notes: Archery tag holders can hunt only during archery seasons. Only archery elk hunters with tags identified in the Special Permits tables may apply for special bull permits. Please see permit table for tag eligibility. If drawn, archers must hunt with archery equipment and hunt branched bulls during the permit archery season.

Early Archery Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched archery elk tag on his/her person for the area hunted: Blue Mountains (BA), Colockum (CA), Yakima (YA), or Western Washington (WA).

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
100-118, 121-142, 178	BA	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.

PROPOSED

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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.

Hunting Method	Elk Tag	1994 Open Season	Special Restrictions
Archery	WA	Sept. 1-14	Spike Bull or Antlerless

Private Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

		Only
	WL Nov. 5-13	Spike Bull
		Only
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 bracketed material preceding the section above was supplied by the code reviser's office.

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

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

**WSR 94-14-088
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-56—Filed July 5, 1994, 4:48 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-245 1994-95 Deer and elk permit hunting seasons.

Purpose: Amend WAC 232-28-245 1994-95 Deer and elk permit hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment changes the way permits will be issued for the Wilson Creek private lands wildlife management area hunts. Permits issued for Wilson C, D, and E will be by first call/first served, rather than by random computer selection.

Reasons Supporting Proposal: The change is necessary to avoid confusion among potential applicants.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and **Enforcement:** Dayna Matthews, Assistant Director, Enforcement Program, 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: This amendment changes the way permits will be issued for the Wilson Creek private lands wildlife management area hunts. Permits issued for Wilson C, D, and E will be by first call/first served, rather than by random computer selection. The change is necessary to avoid confusion among potential applicants.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small

business economic impact statement was necessary because no significant cost will occur to any industry.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by August 5, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by August 5, 1994.

Date of Intended Adoption: August 13, 1994.

July 5, 1994
Dayna Matthews
Assistant Director
for Evan Jacoby
Legal Counsel

AMENDATORY SECTION [(Amending Order 659, filed 5/10/94)]

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

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.	Name	HuntNo. 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	Pearygin	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

PROPOSED

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

*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, Either Sex	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.

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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

Only hunters possessing modern firearm deer tags and meeting the special restrictions noted for each hunt are eligible for permits on PLWMA 201. There will be up to 20 hunters (Wilson A below) authorized to participate in a special hunt for which an access fee will be charged. You may apply for buck permits (Wilson A) by contacting the landowner at (509) 345-0121. Applications for Wilson B should be through the normal application process. For Wilson C, D, and E, permits are available on a first-call basis. The Region Two office in Ephrata will be taking applications by phone (509) 754-4624 for antlerless permits during July 26-29, 1994. Hunters must purchase hunting license, modern firearm deer tag, and permit application before calling for permits. Access for Hunts C, D, and E are for one day, scheduled by the landowner. There are no access fees for hunts B, C, D, or E, but the landowner or his representative will accompany all deer hunters on these hunts. All hunters ((The hunter)) must have a valid hunting license, ((transport)) deer tag, and written authorization from the landowner to participate in ((this hunt)) these hunts. ((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.

**No hunt number because hunters must apply by calling the Region Two office in Ephrata (509-754-4624) during July 26-29, 1994.

***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 Permit 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

PROPOSED

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
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

PROPOSED

2098 Kapowsin South

15 Nov. 23-
Dec. 5Spike Bull or
Antlerless Only

PLWMA 401C South

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 94-14-089
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 94-57—Filed July 5, 1994, 4:50 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

Purpose: Amend WAC 232-28-02240 Game management units (GMUs)—Special game areas—Boundary descriptions—Muzzleloader area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule establishes a new muzzleloader area boundary description in Skagit County.

Reasons Supporting Proposal: A description for Muzzleloader Area No. 940 Coal Creek (Skagit County) was inadvertently omitted when muzzleloader area descriptions were adopted by the Fish and Wildlife Commission on March 12, 1994. Adoption of this regulation is necessary since a special permit hunt has been established for this area.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Britnell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and Enforcement: Dayna Matthews, Assistant Director, Wildlife Management Program, 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: A description for Muzzleloader Area No. 940 Coal Creek (Skagit County) was inadvertently omitted when muzzleloader area descriptions were adopted by the Fish and Wildlife Commission on March 12, 1994. Adoption of this regulation is necessary since a special permit hunt has been established for this area.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small business economic impact statement was necessary because no significant cost will occur to any industry.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by August 5, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by August 5, 1994.

Date of Intended Adoption: August 13, 1994.

July 5, 1991 [1994]
Dayna Matthews
Assistant Director
for Evan Jacoby
Legal Counsel

AMENDATORY SECTION [(Amending Order 648, filed 5/10/94)]

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. 940 Coal Creek (Skagit County): Beginning at the point where State Highway 20 crosses Childs Creek approximately one mile west of Lyman; then north up said creek to Crown Pacific 110 Road; then west along said road to Crown Pacific 130 Road; then west along said road to Crown Pacific 132 Road; then continue west along said road to where it crosses Hanson Creek; then south down Hanson Creek to State Highway 20 to Childs Creek and point of beginning.

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.

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 94-14-090
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-58—Filed July 5, 1994, 4:52 p.m.]

Original Notice.

Title of Rule: Amending WAC 232-12-024 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat.

Purpose: Amend WAC 232-28-024 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This amendment removes the requirements for lynx pelt sealing and collection of biological information for lynx. The requirements for possession and sale of sealed pelts are retained.

Reasons Supporting Proposal: Lynx are no longer hunted or trapped in Washington. The regulations requiring sealing and providing biological information are no longer relevant. Lynx that were previously legally harvested in Washington or in other states or countries must have seals attached.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and Enforcement: Dayna Matthews, Assistant Director, Enforcement Program, 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: This amendment removes the requirements for lynx

pelt sealing and collection of biological information for lynx. The requirements for possession and sale of sealed pelts are retained to prevent illegal harvest and sale of lynx pelts.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small business economic impact statement was necessary because no significant cost will occur to any industry.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by August 5, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by August 5, 1994.

Date of Intended Adoption: August 13, 1994.

July 5, 1994
Dayna Matthews
Assistant Director
for Evan Jacoby
Legal Counsel

AMENDATORY SECTION [(Amending Order 498, filed 6/17/91)]

WAC 232-12-024 Requirements for sealing of pelts and collection of biological information for river otter, cougar, lynx, and bobcat. (1) It is unlawful to possess river otter, cougar, lynx, or bobcat taken in Washington without a department identification seal which has been attached to the raw pelt prior to the pelt sealing deadline.

(2) Any river otter, cougar, (~~(lynx)~~) or bobcat raw pelt must be presented by the person harvesting the animal, in such a manner that teeth and biological samples can be extracted, to an authorized department employee for sealing.

(3) The raw pelt of a bobcat or river otter must be sealed by an authorized department employee within (~~(ten)~~) 20 days after the close of the appropriate hunting or trapping season in which it was killed.

(4) Any person who takes a cougar (~~(or lynx)~~) must notify the department within 72 hours of kill (excluding legal state holidays) and provide the hunter's (~~(or trapper's)~~) name, date and location of kill, and sex of animal. The raw pelt of a cougar (~~(or lynx)~~) must be sealed by an authorized department employee within five days of the notification of kill.

Any person who takes a cougar must present the cougar skull, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing. (~~(Any person who takes a lynx must present the lynx carcass, in such a manner that teeth and biological samples can be extracted, to an authorized department employee at the time of sealing.)~~)

(5) It is unlawful to transport or cause the transport out of Washington of a raw pelt of river otter, cougar, lynx, or bobcat taken in Washington without a department seal attached to the pelt.

(6) The raw pelt of a river otter, cougar, lynx, or bobcat taken outside Washington and imported into the state must be identified by a tag and/or seal from the state or country

of origin and be accompanied by an invoice or declaration specifying the number of pelts in the shipment.

(7) It is unlawful to possess an unlocked, broken, or otherwise open department seal for river otter, cougar, lynx, or bobcat unless the seal wire or band has been cut through and removed from a pelt that has been received and invoiced by a licensed taxidermist or fur dealer for processing or removed from a pelt that has been processed. Invoices must be sequentially numbered and record name, address, license number, date received, and seal number. The seal must accompany the pelt while being processed. The pelt must be punched with invoice number at the time of skinning or prior to the removal of the seal.

(8) When a river otter or bobcat is presented unskinned and is to be taken to a taxidermist for processing and will not be sold, an authorized department employee may lock the seal and then cut through the band or wire. The cut seal must be presented to the taxidermist along with the unskinned carcass.

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

WSR 94-14-091
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 94-59—Filed July 5, 1994, 4:55 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-514 1994-95 and 1995-96 Trapping seasons and regulations; and repealing WAC 232-28-513 1992-93 and 1993-94 Trapping seasons and regulations.

Purpose: Adopt WAC 232-28-514 1994-95 and 1995-96 Trapping seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule adopts the trapping seasons and regulations for the 1994-95 and 1995-96 seasons.

Reasons Supporting Proposal: Establishes time, place, and manner for trapping to provide recreational opportunity and maintain healthy furbearer populations.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and Enforcement: Dayna Matthews, Assistant Director, Enforcement Program, 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: Establishes time, place, and manner for trapping to provide recreational opportunity and maintain healthy furbearer populations.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small business economic impact statement was necessary because no significant cost will occur to any industry.

PROPOSED

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by August 5, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by August 5, 1994.

Date of Intended Adoption: August 13, 1994.

July 5, 1994
Dayna Matthews
Assistant Director
for Evan Jacoby
Legal Counsel

REPEALER

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

WAC 232-28-513 1992-93 and 1993-94 Trapping seasons and regulations

NEW SECTION

WAC 232-28-514 1994-95 and 1995-96 Trapping seasons and regulations

TRAPPING REGULATIONS

IT SHALL BE UNLAWFUL TO: Trap for wild animals before October 1, and after March 15, in western Washington; EXCEPTION: trapping of unclassified wild animals causing damage or predation on private property by the owner or person legally controlling said property (or his designee) is permitted.

IT SHALL BE UNLAWFUL TO: Place traps or establish drowning wire and weights prior to 7:00 a.m. on the opening of the trapping season.

The fox season is closed within the exterior boundaries of the Mount Baker, Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests; and closed in San Juan, Island, Skagit, and Whatcom counties.

Federal lands within the Ross Lake and Lake Chelan National Recreation Areas are CLOSED to trapping.

Licenses will be issued only to trappers who have submitted their mandatory Trappers Report of Catch postmarked on or before April 10 of the previous year.

Trappers who fail to submit a report of catch must wait one year before purchasing another trapping license. False reports will be considered the same as no Report of Catch being filed.

To be issued a trapping license, new trappers must meet trapper training requirements.

Certain areas have extended, shortened, or closed seasons for listed species. Refer to the general season, then look for special seasons and exceptions in the trapping zone in which you wish to trap. All opening and closing dates are inclusive. Trapping season starts at 7 a.m. on opening dates.

EASTERN WASHINGTON

General Seasons For All Eastern Washington

For purposes of this regulation, all of Klickitat County will have the same general seasons as Eastern Washington.

Bobcat Dec. 15, 1994-Jan. 15, 1995 and Dec. 15, 1995-Jan. 15, 1996

Beaver, River Otter, Nov. 8, 1994-Feb. 28, 1995 and Badger, Fox Nov. 8, 1995-Feb. 28, 1996

Muskrat Nov. 8, 1994-Mar. 15, 1995 and Nov. 8, 1995-Mar. 15, 1996

River Otter Season bag limit is two (2)

Northern Zone (Chelan, Ferry, Okanogan, Pend Oreille, Spokane, and Stevens counties)

Weasel, Raccoon, Nov. 15, 1994-Jan. 31, 1995 and Mink Nov. 15, 1995-Jan. 31, 1996

Marten Dec. 15, 1994-Jan. 15, 1995 and Dec. 15, 1995-Jan. 15, 1996

A permit is required to trap on the Little Pend Oreille National Wildlife Refuge. Contact Little Pend Oreille Refuge Headquarters to obtain permits.

EXCEPTIONS:

CHELAN

Beaver Closed in Swakane and Mudd Creek

OKANOGAN

Marten Dec. 1, 1994-Jan. 31, 1995 and Dec. 1, 1995-Jan. 31, 1996

PEND OREILLE COUNTY

Marten Closed west of the Pend Oreille River

SPOKANE COUNTY

River Otter, Marten CLOSED

STEVENS COUNTY

Marten Closed east of the Columbia River

Southern Zone (Adams, Asotin, Benton, Columbia, Douglas, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Walla Walla, Whitman, and Yakima counties)

River Otter open only in Klickitat, Kittitas, and Yakima counties, as well as the Snake and Walla Walla Rivers and their tributaries (season bag limit 2 Otter).

Weasel, Raccoon, Nov. 15, 1994-Feb. 28, 1995 and Mink Nov. 15, 1995-Feb. 28, 1996

Marten Dec. 1, 1994-Jan. 31, 1995 and Dec. 1, 1994-Jan. 31, 1995

EXCEPTIONS:

KITTITAS COUNTY

BEAVER closed in the north fork of Tarpiscan Creek, and the Umtanum Creek drainage.

WESTERN WASHINGTON

Certain areas have extended, shortened, or closed seasons for listed species. Refer to the general season, then look for special seasons and exceptions. All opening and closing dates are inclusive. Trapping season starts at 7 a.m. on opening dates.

General Seasons For All Western Washington

Beaver, Otter Dec. 8, 1994-Jan. 31, 1995 and
Dec. 8, 1995-Jan. 31, 1996

Muskrat, Mink, Raccoon,
Marten, Weasel Nov. 21, 1994-Jan. 31, 1995 and
Nov. 21, 1995-Jan. 31, 1996

Bobcat, Fox Nov. 21, 1994-Feb. 15, 1995 and
Nov. 21, 1995-Feb. 15, 1996

EXCEPTIONS:

COWLITZ COUNTY

Game Management Unit 522 (Loo-wit) closed to all trapping.

LEWIS COUNTY

Green River closed to trapping above confluence of Elk Creek except bobcat and coyote. Game Management Unit 522 (Loo-wit) closed to all trapping.

MASON COUNTY

Agate Peninsula (near Shelton) west of the Grunert Road and Agate Loop Road to Campbell Creek are open for the use of cage traps only.

PIERCE COUNTY

Marten Closed within the following described boundary: Beginning at intersection of State Highway 410 and USFS Road #70, then east along USFS Road #70 to the Pacific Crest Trail (Pierce/Yakima county line), then south along the Pacific Crest Trail to USFS Road #7174, then west along USFS Road #7174 to State Highway 410, then north along State Highway 410 to the point of beginning.

SKAGIT COUNTY

Beaver Dec. 1, 1994-Feb. 28, 1995 and
Dec. 1, 1995-Feb. 28, 1996 in that part of Skagit County west of I-5.

Trappers should note that the Illabot Slough and Barnaby Slough posted areas, within the Skagit Bald Eagle Natural Area, are closed to trespass to protect eagle roosting sites.

SKAMANIA COUNTY

Smith Creek, Bean Creek, Clearwater Creek, above USFS 83 Road on Pine Creek, above the confluence of Bean Creek on the Muddy River, CLOSED to all trapping except for bobcat and coyote. Game Management Unit 522 (Loo-wit) CLOSED to all trapping.

THURSTON COUNTY

Raccoon Season extended for cage traps only.
Feb. 1, 1995-Feb. 15, 1995 and
Feb. 1, 1996-Feb. 15, 1996

URBAN TRAPPING AREAS

Trap Restrictions

The following described area is closed to the taking of wild animals by the use of foot-hold, instant kill, or snare traps except muskrat may be taken with a number one foot-hold drowning set or a 110 instant kill trap during lawful trapping seasons as established by the Fish and Wildlife Commission.

Within Snohomish, King, and Pierce counties. Beginning at the confluence of the Snohomish River and the Puget Sound; then east up the Snohomish River to Interstate 5 (I-5); then south on I-5 to Interstate 405 (I-405); then south on I-405 to I-5; then south on I-5 to its junction with Pioneer Way; then east along Pioneer Way to Waller Road; then south along Waller Road to SR 512; then west along SR 512 to I-5; then north and west to Puget Sound; then north along the coast to the mouth of the Snohomish River and point of beginning.

In the described area Raccoon season is open (cage traps only) Nov. 21, 1994-Feb. 15, 1995 and
Nov. 21, 1995-Feb. 15, 1996

48 Hour Trap Check Time

In the following described areas all traps or devices, not capable of drowning the animal (land sets), must be checked and the animal removed within 48 hours.

Within Snohomish, King, and Pierce counties. Beginning at the mouth of the Snohomish River; then south and east up the Snohomish River to Highway 9; then south on Highway 9 to the Woodinville-Duvall Road; then east on Woodinville-Duvall Road to Avondale Road; then south on Avondale Road to Highway 202; then east on Highway 202 to Duthie Hill Road; then southwest on Duthie Hill Road to its junction with the Issaquah-Fall City Road; then southwest on Issaquah-Fall City Road to East Lake Sammamish Parkway; then south on East Lake Sammamish Parkway to Front Street; then south on Front Street to Issaquah-Hobart Road; then southeast on Issaquah-Hobart Road to Highway 18; then southwest on Highway 18 to Highway 167; then south on Highway 167 to Highway 161; then south on Highway 161 to 224th Street E.; then west on 224th Street E. to Highway 7; then northwest on Highway 7 to Highway 507; then southwest on Highway 507 to Pierce County line; then west along the county line to Puget Sound; then north along the coast to the mouth of the Snohomish River and point of beginning.

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.

PROPOSED

WSR 94-14-092
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 94-60—Filed July 5, 1994, 4:58 p.m.]

Original Notice.

Title of Rule: Adopting WAC 232-28-418 1994-95 Migratory waterfowl seasons and regulations; and repealing WAC 232-28-417 1993-94 Migratory waterfowl seasons and regulations.

Purpose: Adopt WAC 232-28-418 1994-95 Migratory waterfowl seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This rule adopts the migratory waterfowl seasons and regulations for 1994-95.

Reasons Supporting Proposal: Establishes time, place, and manner of waterfowl seasons to provide recreational opportunity and maintain healthy wildlife populations.

Name of Agency Personnel Responsible for Drafting and Implementation: Dave Brittell, Assistant Director, Wildlife Management Program, Olympia, (206) 902-2504; and **Enforcement:** Dayna Matthews, Assistant Director, Enforcement Program, 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: Establishes time, place, and manner of waterfowl seasons to provide recreational opportunity and maintain healthy wildlife populations.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. No small business economic impact statement was necessary because no significant cost will occur to any industry.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by August 5, 1994, TDD (206) 902-2207, or (206) 902-2267.

Submit Written Comments to: Washington Department of Fish and Wildlife, Wildlife Management Program, Game Division, George Tsukamoto, 600 Capitol Way North, Olympia, WA 98501-1091, FAX (206) 664-3290, by August 5, 1994.

Date of Intended Adoption: August 13, 1994.

July 5, 1994
 Dayna Matthews
 Assistant Director
 for Evan Jacoby
 Legal Counsel

REPEALER

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

WAC 232-28-417 1993-94 Migratory waterfowl seasons and regulations

NEW SECTION

WAC 232-28-418 1994-95 Migratory waterfowl seasons and regulations

DUCKS

Western Washington

8:00 a.m. Oct. 15-23, 1994 and Nov. 13, 1994-Jan. 1, 1995

Daily bag limit: 4 ducks—to include not more than 3 mallards, not more than 1 hen mallard, not more than 1 pintail (either sex) and not more than 2 redheads, 2 canvasbacks, or 1 of each.

Possession limit: 8 ducks—to include not more than 6 mallards, not more than 2 hen mallards, not more than 2 pintails (either sex) and not more than 4 shall be canvasbacks and/or redheads.

Eastern Washington

Noon Oct. 15-23, 1994 and Nov. 6, 1994-Jan. 1, 1995

Daily bag limit: 4 ducks—to include not more than 3 mallards, not more than 1 hen mallard, not more than 1 pintail (either sex) and not more than 2 redheads, 2 canvasbacks, or 1 of each.

Possession limit: 8 ducks—to include not more than 6 mallards, not more than 2 hen mallards, not more than 2 pintails (either sex), and not more than 4 shall be canvasbacks and/or redheads.

COOT (Mudhen)

Same areas, dates, and shooting hours as the general duck season.

Daily bag limit: 25 coots.

Possession limit: 25 coots.

COMMON SNIPE

Same areas, dates, and shooting hours as the general duck season.

Daily bag limit: 8 snipe.

Possession limit: 16 snipe.

GEESE (except Brant and Aleutian Canada Geese)

WESTERN WASHINGTON

Western Washington Goose Management Area 1
 Island, Skagit, Snohomish counties

8 a.m. Oct. 15, 1994-Jan. 1, 1995

Daily bag limit: 3 geese

Possession limit: 6 geese

WRITTEN AUTHORIZATION REQUIRED TO HUNT SNOW GEESE. All persons hunting snow geese in this season are required to obtain a written authorization and Harvest Report from the Washington Department of Fish and Wildlife. Hunters who held a 1993 authorization and returned the Harvest Report prior to the deadline will be mailed a 1994 authorization in early October. Hunters who did not possess a 1993 authorization must fill out an application (available at Washington Department of Fish and Wildlife regional offices). Application forms must be delivered to a Department office no later than September 25 or postmarked on or before September 25, after which applicants will be mailed a 1994 authorization in early October. Immediately after taking a snow

goose into possession, hunters must record in ink the information required on the Harvest Report. Return of the Harvest Report is mandatory. Those hunters not returning the Harvest Report to the Washington Department of Fish and Wildlife by January 15, 1995 will be ineligible to participate in the 1995 snow goose season.

Western Washington Goose Management Area 2

Clark, Cowlitz, Pacific, and Wahkiakum counties

Open in Clark and Cowlitz counties south of the Kalama River on the following dates from 8:00 a.m. to 4:00 p.m.:

Nov. 27, 29, 1994

Dec. 3, 7, 11, 13, 17, 21, 27, 31, 1994

Jan. 3, 7, 11, 15, 17, 21, 1995

Open in Cowlitz County north of the Kalama River, Pacific, and Wahkiakum counties on the following dates from 8:00 a.m. to 4:00 p.m.:

Saturdays, Sundays, and Wednesdays only, Nov. 26, 1994-Jan. 22, 1995, except closed

Dec. 25, 1994 and Jan. 1, 1995.

Bag limits for all of Western Washington Goose Management Area 2:

Daily bag limit: 4 geese, to include not more than three Canada geese, not more than 3 white geese (snow, Ross', blue), not more than one dusky Canada goose, and not more than one cackling Canada goose.

Possession limit: 8 geese, to include not more than six Canada geese, not more than six white geese (snow, Ross', blue), not more than 2 cackling Canada geese, and not more than one dusky Canada goose.

Season limit: 1 dusky Canada goose.

The Canada goose season for Clark, Cowlitz, Pacific, and Wahkiakum counties will be closed early if dusky Canada goose harvests exceed area quotas which collectively total 90 geese. The Washington Fish and Wildlife Commission has authorized the Director to implement emergency area closures in accordance with the following quotas: a total of 90 dusky, to be distributed 45 for Clark and south Cowlitz counties private lands, 20 for Ridgefield National Wildlife Refuge, and 25 for north Cowlitz, Wahkiakum, and Pacific counties.

Hunting only by written authorization from the Washington Department of Fish and Wildlife. Hunters who maintained a valid 1993 written authorization will be mailed a 1994 authorization card prior to the 1994 season. Hunters who did not maintain a valid 1993 authorization must attend a goose identification class at a Washington Department of Fish and Wildlife office to receive authorization. With the authorization, hunters will receive a hunter activity and Harvest Report. Hunters must carry the authorization card and Harvest Report while hunting. Immediately after taking a Canada goose into possession, hunters must record in ink the information required on the Harvest Report. Hunters must go directly to the nearest check station and have geese tagged when leaving a hunt site. If a hunter takes the season bag limit of one dusky Canada goose or does not comply with requirements listed above regarding checking of birds and recording harvest on the Harvest Report, written authorization will be revoked and the hunter will not be able

to hunt Western Washington Goose Management Area 2 for the remainder of the season.

Western Washington Goose Management Area 3

Includes all parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

8 a.m. Oct. 15, 1994-Jan. 22, 1995

Daily bag limit: 4 geese, to include not more than 3 white geese (snow, Ross', blue).

Possession limit: 8 geese, to include not more than 6 white geese (snow, Ross', blue).

EASTERN WASHINGTON

(see area descriptions below)

Eastern Washington Goose Management Area 1

Saturdays, Sundays, and Wednesdays only, from noon Oct. 15, 1994-Jan. 15, 1995;

Nov. 11, 24, 25, Dec. 26, 1994, and Jan. 2, 1995; and every day Jan. 16-22, 1995.

Eastern Washington Goose Management Area 2

Saturdays, Sundays, Tuesdays, and Wednesdays only, from noon Oct. 15, 1994-Jan. 15, 1995; Nov. 11, 24, 25, Dec. 26, 27, 29, 30, 1994; and every day Jan. 16-22, 1995.

Eastern Washington Goose Management Area 3

Noon Oct. 15, 1994-Jan. 22, 1995.

Bag limits for all Eastern Washington Goose Management Areas:

Daily bag limit: 4 geese, to include not more than 3 white geese (snow, Ross', blue).

Possession limit: 8 geese, to include not more than 6 white geese (snow, Ross', blue).

BRANT

Open in Skagit and Pacific counties only, on the following dates:

Dec. 10, 11, 12, 14, 16, 17, 18, 21, 23, 1994.

WRITTEN AUTHORIZATION REQUIRED: All hunters participating in this season are required to obtain a written authorization and Harvest Report from the Washington Department of Fish and Wildlife. Hunters who held a 1993 authorization and returned the Harvest Report prior to the deadline will be mailed a 1994 authorization in early December. Hunters who did not possess a 1993 authorization must fill out an application (available at Washington Department of Fish and Wildlife regional offices). Application forms must be delivered to a Department office no later than 5:00 p.m. on November 10 or postmarked on or before November 10, after which applicants will be mailed a 1994 authorization in early December. Immediately after taking a brant into possession, hunters must record in ink the information required on the Harvest Report. Return of the Harvest Report is mandatory. Those hunters not returning the Harvest Report to the Washington Department of Fish and Wildlife by January 15, 1995 will be ineligible to participate in the 1995 brant season.

Daily bag limit: 2 brant.

Possession limit: 4 brant.

ALEUTIAN CANADA GEESE AND SWANS

Season closed statewide.

EASTERN WASHINGTON GOOSE MANAGEMENT AREA DESCRIPTIONS**Eastern Washington Goose Management Area 1**

All of Lincoln, Spokane, and Walla Walla counties, and these parts of the following counties listed below:

Grant County: Those parts east of line beginning at the Douglas-Lincoln County line on State Highway 174, southwest on State Highway 174 to State Highway 155, south on State Highway 155 to U.S. Highway 2, southwest on U.S. Highway 2 to the Pinto Ridge Road, south on Pinto Ridge Road to State Highway 28, east on State Highway 28 to the Stratford Road, south on the Stratford Road to State Highway 17, south on State Highway 17 to the Grant-Adams County line.

Adams County: Those parts east of State Highway 17.

Franklin County: Those parts east and south of a line beginning at the Adams-Franklin County line on State Highway 17, south on State Highway 17 to U.S. Highway 395, south on U.S. Highway 395 to U.S. Interstate I-182, west on U.S. Interstate I-182 to the Franklin-Benton County line.

Benton County: Those parts south of U.S. Interstates I-182 and I-82.

Klickitat County: Those parts east of U.S. Highway 97.

Eastern Washington Goose Management Area 2

All of Okanogan, Douglas, and Kittitas counties and those parts of Grant, Adams, Franklin, and Benton counties not included in Eastern Washington Goose Management Area 1.

Eastern Washington Goose Management Area 3

All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

STEEL SHOT REQUIREMENT

No person shall hunt waterfowl or coots while using or possessing shotshells or a muzzleloader shotgun loaded with metal other than steel.

SPECIAL CLOSURES AND REGULATIONS**Special Closures**

Columbia River:

It is unlawful to hunt waterfowl, coot, or snipe on or within one-fourth mile of the Columbia River in the following areas:

—Between the railroad bridge at Wishram and east along the Columbia River to the grain elevator at Roosevelt.

—Between Rock Island Dam and the Chelan County substation at Winesap in Chelan County and between Rock Island Dam and a point in Douglas County perpendicular to the Chelan County substation at Winesap.

—Between Chief Joseph Dam and the mouth of Nespelem Creek in Okanogan and Douglas counties.

—From the old Hanford townsite (wooden tower) powerline crossing in Sec. 30, T13N, R28E, to Vernita Bridge (Highway 24).

—On or within one-fourth mile of Badger and Foundation Islands in Walla Walla County.

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

—From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)

—Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

The U.S. Department of Energy retains security closures on the Hanford Reservation along the Columbia River.

Snake River

It is unlawful to hunt waterfowl, coot, or snipe in the following areas:

—On or within one-half mile of the Snake River from the Highway 12 bridge upriver to Lower Monumental Dam.

—On or within one-fourth mile of the Snake River between the Interstate Highway 12 bridges at Clarkston, downstream to the Lower Granite Dam.

Yakima River

It is unlawful to hunt waterfowl, coot, or snipe within one-fourth mile of the Yakima River in the following areas:

—From the Sunnyside-Mabton Road bridge downstream to the Euclid Road bridge (4 miles).

—From the Grant Avenue bridge (steel bridge) north of Prosser downstream 2-1/2 miles, to the powerline.

I-82 Ponds

It is unlawful to hunt waterfowl, coot, or snipe in the following area:

—Those waters under Washington Department of Fish and Wildlife ownership known as Ponds 1, 2, 3, and 6 north and east of Interstate 82 and south and east of S.R. 12 from the city limits of Union Gap to the Zillah/Toppenish Road.

Padilla Bay

It is unlawful to hunt waterfowl, coot, or snipe in the following areas:

—Swinomish Spit Game Reserve—Beginning at the Burlington Northern railroad tracks on the west shoreline of the Swinomish Channel; then in a northwesterly direction along the west side of the Swinomish Channel to the red channel mark buoy N "20" (as indicated on Navigation Map #18427, 13th Ed., July 16, 1983); then 6,000 feet ENE (east-northeast); then 3,300 feet SSE (south-southeast); then 4,200

feet SW (southwest) to the dike at the south end of Padilla Bay; then continue westerly along said dike to the intersection of the Burlington Northern railroad tracks and the east shoreline of the Swinomish Channel; then continue along said railroad tracks (across swing bridge) to the west shore line of the Swinomish Channel and the point of beginning.

—Bayview Game Reserve—Beginning at a point on the Bayview-Edison Road 750 feet south of the intersection of the Bayview Cemetery Entrance road; then 4,000 feet WNW (west-northwest); then 5,750 feet NNW (north-northwest); then 3,750 feet ENE (east-northeast) to the northwest corner of Padilla Bay Tract No. 532; then east to the northeast corner of Padilla Bay Tract No. 532; then SSE (south-southeast) to the Bayview-Edison Road; then southerly along said road to the point of beginning.

Special Regulations

Skagit Wildlife Area Shotgun Shell Restriction

It is unlawful to have in possession more than 15 shotgun shells or to fire more than 15 shells in one day on the farmed island segment of the Skagit public hunting area, between the south fork of the Skagit River and Fresh Water Slough.

It is unlawful to hunt waterfowl from a moving boat or any free-floating device that is not in a fixed position which is either anchored or secured to shore in Port Susan Bay, Skagit Bay, Padilla Bay, and Samish Bay.

Belfair - Hood Canal

It is unlawful to hunt waterfowl in Lynch Cove and the Union River except in designated blinds. The western and southern boundaries of this closure are posted with red steel markers. (This includes all of the Washington Department of Fish and Wildlife and Thelar Wetlands lands.)

FALCONRY SEASONS

A falconry license and a current hunting license are required for hunting with a raptor. In addition, an Eastern Washington Upland Bird Permit or a Western Washington Upland Bird Permit is required to hunt pheasant, quail, and partridge; and federal and state waterfowl stamps for hunting waterfowl are required. A 1995 hunting license, 1995 falconry license, and a 1995 Eastern or Western Washington Upland Bird Permit are required to hunt pheasant, partridge, and grouse after December 31.

Ducks and Coots

(Bag limits include geese, snipe, and mourning doves.)

Western Washington

Oct. 15-23; Nov. 13, 1994-Feb. 18, 1995
Daily bag limit: 3, straight or mixed bag with geese, snipe, and mourning doves during established seasons.
Possession limit: 6, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Eastern Washington

Oct. 15-23; Nov. 6, 1994-Jan. 1, 1995; Jan. 29-Mar. 10, 1995
Daily bag limit: 3, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with geese, snipe, and mourning doves during established seasons.

Geese

(Bag limits include ducks, coot, snipe, and mourning doves)

Oct. 15, 1994-Jan. 29, 1995, statewide.

Daily bag limit: 3, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coot, snipe, and mourning doves during established seasons.

Snipe

(Bag limits include ducks, coots, geese, and mourning doves)

Oct. 1, 1994-Jan. 15, 1995, statewide

Daily bag limit: 3, straight or mixed bag with ducks, coots, geese and mourning doves during established seasons.

Possession limit: 6, straight or mixed bag with ducks, coots, geese and mourning doves during established seasons.

WSR 94-14-093
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed July 6, 1994, 9:05 a.m.]

Original Notice.

Title of Rule: Chapter 392-141 WAC, Transportation—State allocation for operations.

Purpose: To amend chapter 392-141 WAC to increase accountability and accuracy in school district reporting for funding purposes.

Statutory Authority for Adoption: RCW 28A.150.290.

Statute Being Implemented: RCW 28A.160.150-[28A.160.]170.

Summary: These amendments provide an audit trail related to the ridership reports submitted by school districts for transportation funding.

Reasons Supporting Proposal: These changes are in cooperation with the state auditor and their overall audit plan, and ESSB 6224 passed by the 1994 legislature.

Name of Agency Personnel Responsible for Drafting: Richard M. Wilson, Superintendent of Public Instruction, Olympia, 753-2298; Implementation: David L. Moberly, Superintendent of Public Instruction, Olympia, 753-6742; and Enforcement: Don M. Carnahan, Superintendent of Public Instruction, Olympia, 753-0235.

Name of Proponent: Superintendent of Public Instruction, governmental.

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

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

Proposal Changes the Following Existing Rules: Makes school districts accountable for the accuracy and completeness of transportation ridership reports used for funding purposes, and provides an audit trail for state auditors.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule will have a minor or negligible economic impact.

Hearing Location: Wanamaker Conference Room, 2nd Floor, Old Capitol Building, 600 South Washington Street, Olympia, WA 98504-7200, on August 10, 1994, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Jim Rich by August 1, 1994, TDD (206) 664-3631, or (206) 753-6733.

Submit Written Comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504, FAX (206) 753-4201.

Date of Intended Adoption: August 12, 1994.

July 5, 1994
Judith A. Billings
Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

WAC 392-141-160 District reporting and recordkeeping requirements. Annual or supplementary reports shall be submitted by each school district to the superintendent of public instruction prior to the third Monday in October. This report shall reflect to the extent practical the planned pupil transportation program for the entire school year and which is in operation during ridership count week. Reports shall be submitted with a cover letter signed by the chief school district administrator attesting to the completeness of the requirements below and the accuracy of the data contained therein. The superintendent shall have the authority to make modifications or adjustments in accordance with the intent of RCW 28A.160.155. Each district shall submit the data required on a timely basis as a condition to the continuing receipt of student transportation allocations. These reports shall be maintained for a period of three years or until audited and include the following but are not limited to:

(1) School bus route logs completed in ink by bus drivers for five consecutive days. These logs shall include state school bus numbers, each bus stop, the number of students boarding the bus at each stop, and destination schools, transfer points, learning centers, or agencies; and

(2) Maps showing student route stop locations, and schools, learning centers, transfer points, or agency locations shall be in a format in accordance with instructions issued by the superintendent of public instruction; and

(3) Other operational data and descriptions, as required by the superintendent of public instruction to determine operation allocation requirements for each district(-); and

(4) An annual school bus mileage report including the beginning and ending year odometer reading, the total miles for each bus for the school year, an estimate of to and from school mileage for the upcoming school year, and miles for extended day routes, field trips, extracurricular, and other contractual uses of school buses; and

(5) Copies of any and all correspondence, publications, news articles, or campaign materials which encourage ridership during count week of the report.

School districts shall maintain at least a weekly one-day route log containing the school bus driver's name, state bus number, route number, route type, day of the week, beginning and ending odometer readings, destinations, destination times and student counts. These route logs shall be main-

tained in the school district files for a period of three years or until audited.

AMENDATORY SECTION (Amending Order 92-03, filed 3/23/92, effective 4/23/92)

WAC 392-141-175 Hazardous walking conditions. Route stops located within one radius mile of schools, learning centers, or agencies may be reported to the superintendent of public instruction for funding purposes if the walking conditions meet the criteria established in the publication "Guidelines for Determining the Existence of Hazardous Walking Conditions." If route stops are submitted for funding purpose, the evaluation must be completed prior to submission of the report to the superintendent.

WSR 94-14-106
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Filed July 6, 1994, 11:45 a.m.]

Original Notice.

Title of Rule: WAC 232-28-61954 1994-95 Washington game fish season and catch limits—Sauk River, Suiattle River, Cascade River, Grays River, Skamokawa Creek, Elochoman River, Coweeman River, Toutle River (North Fork), Green River (Cowlitz County), Cowlitz River, Kalama River, Lewis River (North Fork), Salmon Creek (Clark County), Washougal River, Skokomish River, Quilicene River, Dungeness River, and Gray Wolf River.

Purpose: Closes selected Columbia River and Puget Sound tributaries to fishing for steelhead.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: Eliminates impacts on depressed salmon stocks caused by sport fishing and assists with enforcement during critical salmon migration and spawning periods.

Reasons Supporting Proposal: Salmon stocks are at unprecedented depressed levels throughout Washington. The regulation proposals will assist in reducing the various game fish sport fishing impacts on nontarget salmon stocks by eliminating hooking mortality, reducing poaching and making enforcement less complicated.

Resource Impacts: These proposals will increase the escapement of critically depressed wild and hatchery salmon stocks.

Statement of Finding: An effective date of August 16, 1994, which is earlier than the thirty-one days after filing, is necessary because the time requirements would be contrary to the public interest. Waiting thirty-one days to implement this regulation will make these depressed salmon stocks vulnerable to hooking mortality, poaching and harvest due to misidentification during summer steelhead sport fishing seasons.

Public Input: These proposals reflect modifications based on substantial public input at the May 26 Fish and Wildlife Commission conference call. There has been no public review of these modifications at the time of filing. The department will hold a meeting with interested constitu-

ents to review these proposals prior to consideration by the Fish and Wildlife Commission.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, AD, Fisheries Management Program, Olympia, Washington, (206) 902-2325; and Enforcement: Dayna Matthews, Chief Enforcement, Olympia, Washington, (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: See Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: Closes selected Columbia River and Puget Sound tributaries to fishing for steelhead.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Game fish regulation proposal. Financial Impacts: The estimated hatchery steelhead harvest during the proposed closures for all areas is 324. This will result in the loss of approximately 1,835 angler days of fishing worth an estimated \$105,500 in economic activity relate to steelhead fishing. This is a maximum estimate because some of these fish will be available for harvest after the proposed closures, and some fishing effort will relocate to other streams or areas that remain open.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, (206) 533-0100, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 29, 1994, TDD (206) 902-2207.

Date of Intended Adoption: August 13, 1994.

July 6, 1994
Dayna Matthews
Assistant Director
for Evan Jacoby
Legal Counsel

NEW SECTION

WAC 232-28-61954 1994-95 Washington game fish seasons and catch limits—Sauk River, Suiattle River, Cascade River, Grays River, Skamokawa Creek, Elochoman River, Coweeman River, Toutle River (North Fork), Green River (Cowlitz County), Cowlitz River, Kalama River, Lewis River (North Fork), Salmon Creek (Clark County), Washougal River, Skokomish River, Quilcene River, Dungeness River, and Gray Wolf River. Notwithstanding the provisions of WAC 232-28-619, effective August 16, 1994, the following regulations apply:

- Item 1: Sauk River: Mouth to headwaters, including North and South Forks: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 2: Suiattle River: Mouth to headwaters: Closed to fishing for steelhead September 1,

- 1994 through October 31, 1994.
- Item 3: Cascade River: Mouth to headwaters: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 4: Grays River: Mouth to South Fork: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 5: Skamokawa Creek: Mouth to forks below Oatfield and Middle Valley Road: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 6: Elochoman River: From the Foster (Risk) Road Bridge upstream to the WDFW temporary rack (a distance of less than one mile): Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 7: Coweeman River: Mouth to Mulholland Creek: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 8: Toutle River (NF): From the mouth of the Green River downstream approximately 200 yards to the power line crossing: Closed to fishing for steelhead September 16, 1994 through October 15, 1994.
- Item 9: Green River: (Cowlitz County) Mouth to salmon hatchery rack: Closed to fishing for steelhead September 16, 1994 through October 15, 1994.
- Item 10: Cowlitz River: From Mill Creek upstream to barrier dam: Closed to fishing for steelhead September 16, 1994 through October 15, 1994.
- Item 11: Kalama River: Mouth upstream to 200 feet upstream of temporary rack: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 12: Lewis River (NF): From lower Cedar Creek concrete boat ramp to Colvin Creek: Closed to fishing for steelhead August

PROPOSED

- 16, 1994 through October 15, 1994.
- Item 13: Salmon Creek: Mouth to N.E. 72nd Avenue: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- Item 14: Washougal River: Mouth to 3rd Avenue bridge: Closed to fishing for steelhead August 16, 1994 through October 15, 1994.
- From mouth upstream to Salmon Falls: Unlawful to fish with non-buoyant artificial lures having more than one single pointed hook August 16, 1994 through October 15, 1994.
- Item 15: Skokomish River: Mouth to forks: Closed to fishing for steelhead September 1, 1994 through October 31, 1994.
- Item 16: Quilcene River: Mouth to upper boundary of Falls View Campground: Closed to fishing for steelhead August 16, 1994 through October 31, 1994.
- Item 17: Dungeness River: Mouth to source: Closed to fishing for steelhead, night closure and unlawful to fish with non-buoyant lures having more than one single pointed hook. August 16, 1994 through September 30, 1994.
- Item 18: Gray Wolf River: Night closure August 16, 1994 through September 30, 1994.

All other provisions of WAC 232-28-619 for these waters remain in effect and unchanged.

WSR 94-14-107
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 6, 1994, 11:51 a.m.]

Original Notice.

Title of Rule: WAC 232-28-61953 1994-95 Washington game fish seasons and catch limits—Big Twin (Okanogan County), trout-catch limit 1; selective fishery regulations, all species, except electric motors allowed.

Purpose: To allow anglers to use electric motors while fishing from floating devices in Big Twin Lake.

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This proposed regulation will provide increased recreational opportunities for anglers by allowing the use of electric motors to propel floating devices on the lake.

Reasons Supporting Proposal: Public requests have been received asking that electric motors be allowed on Big Twin Lake to propel floating devices while fishing. This proposed regulation change is consistent with the agency's intent to provide increased recreational opportunities, while protecting the resource.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, AD, Fisheries Management Program, Olympia, Washington, (206) 902-2325; and Enforcement: Dayna Matthews, Chief Enforcement, Olympia, Washington, (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: This proposed regulation change would allow anglers the opportunity to fish Big Twin Lake using an electric motor to aid in propulsion of a floating device. This proposed regulation is anticipated to allow additional anglers that were discouraged by the current regulation prohibiting all motors, to fish the lake.

Statement of Finding: An effective date of August 16, 1994, is requested to implement this proposed change in an expeditious manner consistent with public need during this current fishing season.

Proposal Changes the Following Existing Rules: The proposed regulation change would allow anglers the opportunity to fish Big Twin Lake using an electric motor to aid in propulsion of a floating device. This proposed regulation is anticipated to allow additional anglers to fish the lake that were previously discouraged by the current regulation prohibiting all motors.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not applicable.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, (206) 533-0100, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 29, 1994, TDD (206) 902-2207.

Date of Intended Adoption: August 13, 1994.

July 6, 1994
 Dayna Matthews
 Assistant Director
 for Evan Jacoby
 Legal Counsel

NEW SECTION

WAC 232-28-61953 1994-95 Washington game fish seasons and catch limits - Big Twin Lake (Okanogan Co.). Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to the Big Twin Lake (Okanogan Co.).

Big Twin Lake (Okanogan Co.): Trout - catch limit 1; Selective Fishery Regulations, all species, except electric motors allowed.

All other provisions of WAC 232-12-619 and 232-28-619 relating to the above waters remain in effect and unchanged.

WSR 94-14-108
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed July 6, 1994, 11:53 a.m.]

Original Notice.

Title of Rule: WAC 232-28-61952 1994-95 Washington game fish seasons and catch limits—Alkali Lake (Grant County), closed to taking of walleye.

Purpose: To close Alkali Lake, (Grant County), to the taking of walleye (*Stizostedion vitreum*).

Statutory Authority for Adoption: RCW 77.12.040.

Statute Being Implemented: RCW 77.12.040.

Summary: This lake has been selected to experiment with the use of walleye to effect control of over-abundant, stunted populations of small perch. Sterile walleye fingerling have been released into Alkali Lake. The proposed rule change would protect walleye from angling mortality while effects of walleye on controlling over-abundant, stunted populations of small perch are investigated.

Reasons Supporting Proposal: Yellow perch (*Perca flavescens*), pumpkinseed sunfish (*Lepomis gibbosus*) and bluegill sunfish (*Lepomis macrochirus*) comprise most of the fish biomass in this lake and have expanded their population size at the expense of growth in individual size. Little recreation is afforded with this situation. Largemouth bass (*Micropterus salmoides*) exist in modest numbers but are unable to effect control of the aforementioned species. Walleye have been introduced in an attempt to reduce fish numbers, and ultimately, improve the size of panfish for greater recreational benefit. For this management effort to be measurable, walleye must be protected from angling mortality.

Name of Agency Personnel Responsible for Drafting and Implementation: Bruce Crawford, AD, Fisheries Management Program, Olympia, Washington, (206) 902-2325; and Enforcement: Dayna Matthews, Chief Enforcement, Olympia, Washington, (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 rule change protects walleye while allowing this predatory species to reduce over-abundant numbers of stunted panfish. The proposed closure enhances the likelihood of developing a management tool which improves panfish size, and thereby provides more recreational opportunities. Current recreational opportunities are not reduced by this change.

Proposal Changes the Following Existing Rules: Closes the taking of walleye in Alkali Lake (Grant County).

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not applicable.

Hearing Location: Nordic Inn, 1700 South Boone, Aberdeen, WA 98520, (206) 533-0100, on August 13, 1994, at 8:00 a.m.

Assistance for Persons with Disabilities: Contact Debbie Nelson by July 29, 1994, TDD (206) 902-2207.

Date of Intended Adoption: August 13, 1994.

July 6, 1994
 Dayna Matthews
 Assistant Director
 for Evan Jacoby
 Legal Counsel

NEW SECTION

WAC 232-28-61952 1994-95 Washington game fish seasons and catch limits—Alkali Lake (Grant Co.). Notwithstanding the provisions of WAC 232-28-619, the following game fish regulations apply to Alkali Lake (Grant Co.).

Alkali Lake (Grant Co.): Closed to taking of walleye.

All other provisions of WAC 232-12-619 and 232-28-619 relating to the above waters remain in effect and unchanged.

PROPOSED

WSR 94-12-043
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Public Assistance)
 [Order 3737—Filed May 26, 1994, 3:36 p.m.]

Date of Adoption: May 26, 1994.

Purpose: WAC 388-96-010(14), to be in agreement with definition in chapter 248-14 WAC; WAC 388-96-010(43), removed a substantive provision and placed it in WAC 388-96-754; WAC 388-96-113(3), revised to grant an exception to 120 day rule to reverse accruals; WAC 388-96-134(1), add a clarifying comma; WAC 388-96-217, clarify what constitutes a violation, who may receive a fine, and when a fine may be waived; WAC 388-96-221(4), 388-96-226 and 388-96-228, to clarify the effect of ESSB 5724 (1993 session) on settlements; WAC 388-96-525(4), clarify what education and training expenses are allowable; WAC 388-96-533, to allow funding for administrator-in-training; WAC 388-96-534, to clarify that approved JCAD does not mean costs are allowable; WAC 388-96-559 (1)(c), clarify salvage values and their use in determining depreciation; WAC 388-96-565(1), update section to current practice; WAC 388-96-585 (2)(b), remove outdated language; WAC 388-96-585 (2)(w), clarify what employee benefits are not reimbursable; WAC 388-96-585 (2)(aa), clarify what fees for professional licenses are not reimbursable; WAC 388-96-585 (2)(vv), new subsection clarifying promotional advertising is unallowable; WAC 388-96-704, remove terms no longer used; WAC 388-96-707, repeal unnecessary because covered under WAC 388-96-585 (2)(b); WAC 388-96-709, to change administration and operation to administrative and operational and delineate difference between first and second rate years of a state fiscal biennium on the new contractor's rate; WAC 388-96-710, to clarify sample selection and the effect of the first and second rate years of a state fiscal biennium on the new contractor's rate; WAC 388-96-719(10), clarify ESSB 5724 effect on occupancy level determination in the first and second rate years of the state fiscal biennium; WAC 388-96-721, repeal because procedure not policy and no longer applicable; WAC 388-96-722, 388-96-727, 388-96-735 and 388-96-737, revised to reflect effect of current funding on the nursing, food, administrative and operational prospective rate for the first and second rate years of the state fiscal biennium; WAC 388-96-745, to clarify change in bed capacity as the result of capitalized addition or replacement on occupancy level determinations; WAC 388-96-753, new section on the effect of current funding under WAC 388-96-774, 388-96-776 and 388-96-777 on ROI; WAC 388-96-754, to remove references to current funding and to add substantive provisions on the determination of ROI in the first and second rate years of a state biennium; WAC 388-96-763, to clarify which cost reports and patient days will be used to set the rates for exceptionally heavy care under the new rate system established by ESSB 5724 of 1993; WAC 388-96-774, to clarify that current funding (CF) for staffing is only available for nursing and operational cost centers and must be requested after the date of hire. Limits the number of requests for CF to two for any state fiscal year. Adds bankruptcy, correction of survey citations and complaint resolution as prohibitions for granting and using CF. Remove CF for capitalized additions or replacements to new

section WAC 388-96-776. Adds regulatory limits on completion of application and beginning date of CF; WAC 388-96-776, new section to delineate the rules for requesting CF for capitalized additions and replacements; WAC 388-96-777, new section giving the department the ability to grant CF on its own initiative. Contractors may not request current funding under this section; and WAC 388-96-904, eliminates the Office of Contracts Management as the reviewing authority for 904(1) audit challenges. Authority will rest with the Office of Rates Management. Clarifies the contractor's duties when a facsimile is used to establish a request date. Permits 904(1) conference earlier than fourteen days if both parties mutually agree. Requires contractor to submit documentation fourteen days in advance of conference. Clarifies when the administrative review determination will be issued.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-96-707 Program services not covered by the reimbursement rate and 388-96-721 Priorities in establishing rates and responding to appeals of desk-review adjustments; and amending WAC 388-96-010 (14) and (43), 388-96-113(3), 388-96-134(1), 388-96-217, 388-96-221(4), 388-96-226, 388-96-228, 388-96-532(4), 388-96-533, 388-96-534, 388-96-559 (1)(c), 388-96-565(1), 388-96-585 (2)(b), (w), (aa) and (vv), 388-96-704, 388-96-707, 388-96-709, 388-96-710, 388-96-719(10), 388-96-721, 388-96-722, 388-96-727, 388-96-735, 388-96-737, 388-96-745, 388-96-754, 388-96-763, 388-96-774, and 388-96-904; new sections WAC 388-96-753, 388-96-776 and 388-96-777.

Statutory Authority for Adoption: RCW 74.46.800.

Pursuant to notice filed as WSR 94-07-109 on March 21, 1994.

Changes Other than Editing from Proposed to Adopted Version: This description of changes is filed for publication in the Washington State Register pursuant to RCW 34.05.340 and is intended to describe the variance in content between WAC 388-96-010(14) as filed for proposed adoption and as filed for permanent adoption.

There are essentially two changes, although the first is reflected in several places:

(1) The proposed draft as published removed references to nursing facility "contractor" and substituted "operator." However, the present draft filed for permanent adoption restores the term "contractor" where appropriate and specifies that a nursing facility "operator" as used in the definition means an operator contracting with the department to deliver care services to medical care recipients.

Because the purpose of amending WAC 388-96-010(14) was to achieve consistency with WAC 248-14-001(10) (which defines "change of ownership" for purposes of nursing facility licensure), the term "operator" was thought to be an acceptable generic term covering both "licensee" and "contractor." However, "operator" is not defined in chapter 388-96 WAC and the Office of Rates Management would not be involved in any change of ownership for reimbursement purposes unless one or both of the operators were a Medicaid contractor. It is therefore preferable to retain "contractor" to be consistent with the scope of chapter 388-96 WAC.

(2) The proposed version of WAC 388-96-010(14) did not delete language specifying that a transfer of some or all of the stock of a corporation does not constitute a change of

ownership. Rather, as proposed, it simply specified that a transfer of stock, but less than fifty percent within any twenty-four month period, does not constitute a change of ownership.

In contrast, WAC 248-14-001(10) entirely deletes language that a transfer of stock is not a change of ownership (WSR 93-23-040). For purposes of greater consistency with WAC 248-14-001(10) and greater internal consistency in WAC 388-96-010(14), the language in subsection (14)(b)(ii) is simply deleted. Partial or whole transfers of stock are adequately covered in WAC 388-96-010 (14)(a)(v). Addressing whole or partial stock transfers in both subsections in terms of whether they constitute a change of ownership simply increases the possibility of conflict when applying the definition in actual case examples.

WAC 388-96-221 (4)(a), the department revised its proposed amendment to clarify how settlements of the nursing services component will be done during the transition years that involve the legislative revision to the Medicaid nursing facility reimbursement system enacted by ESSB 5724.

In their comments on the proposed amendments to WAC 388-96-221, the nursing home industry pointed out the need for such clarification and the department concurred.

WAC 388-96-525(4), the department revised this proposed amendment in response to comments from the nursing home industry that tuition should be an allowable expense outside Idaho, Washington, Oregon, and British Columbia. The revision makes clear the following:

- a. Training and education expenses are allowable irrespective of their site.
- b. Travel, lodging and meals related to training and education are only allowable within Idaho, Washington, Oregon, and British Columbia.

WAC 388-96-774 (3)(d), in response to industry comments, the department revised this proposed amendment to require two proofs of hire rather than three proofs of hire. Also "W-four" has been changed to W-4, which is the abbreviation by which this form is commonly known.

Effective Date of Rule: Thirty-one days after filing.

May 26, 1994
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

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

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

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

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

reported in the period in which incurred, regardless of when paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Through the exercise of any option, warrant, or right;

(ii) Through the conversion of an ownership interest;

(iii) Pursuant to the power to revoke a trust, discretionary account, or similar arrangement; or

(iv) Pursuant to the automatic termination of a trust, discretionary account, or similar arrangement;

Except that, any person who acquires an ownership interest or power specified in subsection (10)(c)(i), (ii), or (iii) of this section with the purpose or effect of changing or

influencing the control of the contractor, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the ownership interest which may be acquired through the exercise or conversion of such ownership interest or power.

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

(i) Formal steps necessary required to declare a default; and

(ii) Determines the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged ownership interest will be exercised provided the pledge agreement:

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

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

(I) Vote or direct the vote of the pledged ownership interest; or

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

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

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

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

(14) "Change of ownership" means a ~~((change in))~~ substitution of the individual operator or ((legal organization)) operating entity contracting with the department to deliver care services to medical care recipients in a nursing facility and ultimately responsible for the daily ((operation)) operational decisions of ((a)) the nursing ((home)) facility; or a substitution of control of such operating entity.

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

(i) The form of legal organization of the contractor is changed (e.g., a sole proprietor forms a partnership or corporation);

(ii) ~~((Title to))~~ Ownership of the nursing home business enterprise is transferred by the contractor to another party, regardless of whether ownership of some or all of the real property and/or personal property assets of the facility is also transferred;

(iii) ~~((Where))~~ If the contractor is a partnership, any event occurs which dissolves the partnership;

(iv) ~~((Where))~~ If the contractor is a corporation, and the corporation is dissolved, merges with another corporation

which is the survivor, or consolidates with one or more other corporations to form a new corporation; ~~((or))~~

(v) If the operator is a corporation and, whether by a single transaction or multiple transactions within any continuous twenty-four-month period, fifty percent or more of the stock is transferred to one or more:

(A) New or former stockholders; or

(B) Present stockholders each having held less than five percent of the stock before the initial transaction; or

(vi) Any other event ~~((occurs))~~ or combination of events which results in a ~~((change))~~ substitution or substitution of control of the individual operator or the operating entity contracting with the department to deliver care services.

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

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

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

~~((iii))~~ The real property or personal property assets ~~((associated with))~~ of the nursing ~~((home))~~ facility change ownership or are leased, or a lease of them is terminated, without a ~~((change))~~ substitution of individual operator or operating entity and without a substitution of control of the operating entity contracting with the department to deliver care services.

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

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

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

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

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

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

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

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

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

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

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

(24) "Equity capital" means total tangible and other assets which are necessary, ordinary, and related to patient care from the most recent provider cost report minus related

total long-term debt from the most recent provider cost report plus working capital as defined in this section.

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

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

(27) "Fair market value" means:

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

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

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

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

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

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

(31) "Generally accepted accounting principles (GAAP)" means accounting principles approved by the financial accounting standards Board (FASB).

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

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

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

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

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

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

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

(38) "Lease agreement" means a contract between two parties for the possession and use of real or personal property or assets for a specified period of time in exchange

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

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

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

(41) "Multiservice facility" means a facility at which two or more types of health or related care are delivered, e.g., a hospital and nursing facility, or a boarding home and nursing facility.

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

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

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

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

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

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

(48) "Operating lease" means a lease under which rental or lease expenses are included in current expenses in accordance with generally accepted accounting principles.

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

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

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

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

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

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

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

(i) Writing of real estate valuation reports;

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

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

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

(55) "Qualified therapist":

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

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

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

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

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

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

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

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

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

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

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

(a) All general and subsidiary ledgers;

(b) Books of original entry;

(c) Invoices;

(d) Schedules;

(e) Summaries; and

(f) Transaction documentation, however maintained.

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

(59) "Related care" includes:

(a) The director of nursing services;

(b) Activities and social services programs;

(c) Medical and medical records specialists; and

(d) Consultation provided by:

(i) Medical directors;

(ii) Pharmacists;

(iii) Occupational therapists;

(iv) Physical therapists;

(v) Speech therapists; and

(vi) Other therapists; and

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

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

(61) "Relative" includes:

(a) Spouse;

(b) Natural parent, child, or sibling;

(c) Adopted child or adoptive parent;

(d) Stepparent, stepchild, stepbrother, stepsister;

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

(f) Grandparent or grandchild; and

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

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

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

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

(c) Endowment funds.

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

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

(a) Administrative and nursing salaries;

(b) Utility costs;

(c) Taxes;

(d) Insurance;

(e) Repairs and maintenance; and

(f) Training costs.

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

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

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

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

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

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

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

AMENDATORY SECTION (Amending Order 3555, filed 5/26/93, effective 6/26/93)

WAC 388-96-113 Completing reports and maintaining records. (1) All report schedules shall be legible and reproducible. All entries must be typed, completed in black or dark blue ink, or provided in an acceptable, indelible copy.

(2) Reports shall be completed in accordance with the provisions of this chapter, the state of Washington nursing home accounting and reporting manual, and such instructions as may be issued by the department from time to time. If no specific regulation, manual provision, or instruction covers a situation, generally accepted accounting principles shall be followed.

(3) The accrual method of accounting shall be used. All revenue and expense accruals shall be reversed against the appropriate accounts if not received or paid within one hundred twenty days after the accrual is made; unless, the contractor has documentation of a good faith billing dispute with the supplier or vendors in which case this period may be extended, but only for those portions of the billings subject to the good faith dispute. Accruals for vacation, holiday, sick pay, and taxes may be carried for longer periods, provided the ~~((contractor's usual policy and))~~ contractor follows generally accepted accounting principles ((are followed)) and pays this type of accrual when due.

(4) Methods of allocating costs, including indirect or overhead costs, shall be consistently applied. Written approval must be obtained from the department if a contractor wishes to change an allocation method. Contractors operating multiservice facilities or facilities incurring joint facility costs shall allocate costs using the methods approved by the department under WAC 388-96-534.

(5) The contractor's records relating to a nursing home shall be maintained so reported data can be audited for compliance with generally accepted accounting principles and the department's reimbursement principles and reporting instructions. If a contractor maintains records utilizing a chart of accounts other than that established by the department, the contractor shall provide to the department a written schedule specifying the way in which the contractor's individual account numbers correspond to the department's chart of accounts. Records shall be available for review by authorized personnel of the department and of the United States Department of Health and Human Services during

normal business hours at a location in the state of Washington specified by the contractor.

(6) If a contractor fails to maintain records adequate for audit purposes as provided in subsection (5) of this section or fails to allow inspection of such records by authorized personnel as provided in subsection (5) of this section, the department may suspend all or part of subsequent reimbursement payments due under the contract until compliance is forthcoming. Upon compliance, the department shall resume current contract payments and shall release payments suspended pursuant to subsection (6) of this section.

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

WAC 388-96-134 Disclosure of nursing home reports. (1) Cost reports and final audit reports will be made available for public disclosure. Cost report schedules showing information on rental or lease of assets, the facility or corporate balance sheet, schedule of changes in financial position, statement of changes in equity-fund balance, notes to financial statements, schedules summarizing adjustments to cost reports, reports or reviews of internal control and accounting procedures, and letters containing comments or recommendations relating to suggested improvements in internal control or accounting procedures shall be exempt from public disclosure.

(2) Whether or not subject to public disclosure, all documents shall be provided by the secretary, upon written request, to the legislature and to state agencies or state and local law enforcement officials having an official interest in the requested documents. A contractor or an authorized agent or designee may have access to nondisclosable information from its own records.

AMENDATORY SECTION (Amending Order 2485, filed 4/20/87)

WAC 388-96-217 Civil fines. (1) When the department finds that a current or former contractor, or any partner, officer, director, owner of five percent or more of the stock of a current or former corporate contractor, or managing agent has failed or refused to comply with any requirement of chapters 74.46 RCW or 388-96 WAC, the department may assess monetary penalties of a civil nature not to exceed one thousand dollars per violation. Every day of noncompliance with any requirement of chapters 74.46 RCW or 388-96 WAC is a separate violation.

(2) The department may fine a contractor or ~~((ex-contractor up to one thousand dollars))~~ former contractor or any partner, officer, director, owner of five percent or more of the stock of a current or former corporate contractor, or managing agent for the following but is not limited to the following in its fine assessments:

(a) Failure to file a mathematically accurate and complete cost report, including a final cost report, on or prior to the applicable due date established by this chapter or authorized by extension granted in writing by the department; or

(b) Failure to permit an audit authorized by this chapter or to grant access to all records and documents deemed necessary by the department to complete such an audit.

~~((2))~~ (3) The department shall send notice of a fine assessed ~~((pursuant to))~~ under subsection ~~((4))~~ (2) of this section ~~((shall be sent))~~ by certified mail return receipt requested to the current contractor, administrator, or ~~(ex-contractor and) former contractor informing the addressee of the following:~~

(a) The fine shall become effective ~~((unless))~~ the date of receipt of the notice by the addressee; and

(b) If within two weeks of the date of receipt of the notice by the addressee, an acceptable cost report is received by the department ~~((or))~~; an audit is allowed; or access to documentation is allowed, as applicable, ~~((within two weeks after notification. Further, each day after the two week period subsequent to notification has expired that compliance is not forthcoming shall constitute a separate violation subject to a maximum fine of one thousand dollars))~~ the department may waive the fine.

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

WAC 388-96-221 Preliminary settlement. (1) In the proposed preliminary settlement submitted under WAC 388-96-220(2), a contractor shall compare the prospective rates at which the contractor was paid during the report period, weighted by the number of patient days reported for the period each rate was in effect, to the contractor's allowable costs for the reporting period. The contractor shall take into account all authorized shifting, cost savings, and upper limits to rates on a cost center basis.

(2) Within one hundred twenty days after a proposed preliminary settlement is received, the department shall:

(a) Review proposed preliminary settlement for accuracy, and

(b) Either accept or reject the proposal of the contractor. If accepted, the proposed preliminary settlement shall become the preliminary settlement report. If rejected, the department shall issue, by cost center, a preliminary settlement report fully substantiating disallowed costs, refunds, or underpayments due and adjustments to the proposed preliminary settlement.

(3) A contractor shall have thirty days after receipt of a preliminary settlement report to contest such report under WAC 388-96-901 and 388-96-904. Upon expiration of the thirty-day period, the department shall not review or adjust a preliminary settlement report.

(4) If no audit is scheduled by the department or if a scheduled audit is not performed within two years of the scheduled date, the department shall perform the preliminary settlement review described in this section with the following exceptions:

(a) For cost centers, the department shall:

(i) Use desk-reviewed costs as the contractor's allowable costs for the reporting period;

(ii) Disallow all costs in excess of the nursing facility's peer group median cost limit as described under WAC 388-96-210; and

(iii) For 1992 and 1993 settlements only, nursing facilities qualifying for the nursing services exception described in WAC 388-96-722(9) will have their 1992 and 1993 nursing services costs limited by the product of their

1992 or 1993 total days, respectively, times their June 30, 1993 nursing services rate.

(b) The department shall calculate the variable portion of return on investment as calculated in the prospective rate;

(c) The department shall base the financing allowance portion of return on investment on audited costs in compliance with provisions contained in this chapter. If audited costs are not available, the department shall use the financing allowance used for rate setting. If an audited financing allowance is later determined, the department shall revise the final settlement to reflect audited financing allowance if payment is changed by \$1,000 or more; and

(d) When a complete audit was not performed and audited information is needed for purposes of calculating return on investment, the department may do a partial audit of current or prior year cost report.

(5) Beginning with preliminary settlements for report year 1988, if the department intends to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon reported costs. If the department does not intend to field audit a facility's reported costs, the department shall issue the facility's preliminary settlement report based upon desk-reviewed costs utilizing the procedure under subsection (4) of this section.

(6) If the facility prevents, hinders, or otherwise delays completion of a full field audit, that facility's preliminary settlement issued on reported costs may be reopened to substitute desk-reviewed costs.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

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

(1) Contractors may not shift more than twenty percent of the rate in a cost center into that cost center;

(2) Contractors may not shift into the property cost center;

(3) Beginning January 1, 1988, contractors may not shift out of the nursing services cost center;

(4) Beginning January 1, 1988, contractors may shift savings and/or overpayments in the food cost center only to cover deficits and/or underpayments in the nursing services cost center; and

(5) Beginning January 1, 1988, contractors shall shift payments in the enhancement cost center shown to have been spent for legislatively authorized enhancements~~((+))~~, funding for which terminated June 30, 1990, to nonadministrative wages and benefits to the nursing services and administration and operations cost centers, as appropriate. Such funds shall be shifted for no other purpose;

(6) The following shall apply with regard to the operational and administrative cost centers:

(a) Beginning January 1, 1993, the operational cost center and the administrative cost center will be combined for the calculation of preliminary and final settlements;

(b) Beginning January 1, 1994, the operational cost center and the administrative cost center will be separate;

and contractors shall not shift from the operational cost center to the administrative cost center~~(s)~~.

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

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

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-228 Cost savings. (1) ~~((Beginning with settlements))~~ For calendar year 1993 ~~((and following))~~ settlements, contractors may not retain cost savings if the sum of the reported costs in the property, operational, and administrative cost centers exceeds audited allowable costs in those cost centers by a total of ten cents or more per patient day. Beginning with settlements for calendar year 1994 and following, if the sum of the reported costs in property and administrative cost centers exceeds audited allowable costs in those cost centers by a total of ten cents or more per patient day, contractors may not retain cost savings in the property and administrative cost centers. For facilities that qualify, cost savings will be determined according to the following procedures:

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

(i) For calendar 1993, in the operational, administrative, and property cost centers; and

(ii) For calendar year 1994 and all subsequent calendar years, in the administrative and property cost centers.

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

(i) For calendar 1993, in the combined operational and administrative cost centers or the property cost center;

(ii) For calendar year 1994 and all subsequent calendar years, in the administrative cost center or the property cost center.

(c) A contractor shall be permitted to retain, after allowable shifting, fifty percent of cost savings in the ~~((administrative cost area or property cost area))~~ following cost centers, multiplied by medical care recipient days of service, if the average rate for the cost report period,

computed according to department instructions in such cost area, is above the fiftieth percentile rate:

(i) For calendar year 1993, in the combined operational and administrative cost centers or the property cost center;

(ii) For calendar year 1994 and all subsequent calendar years, the administrative cost center or the property cost center.

~~((3))~~ (2) The department shall recover cost savings attributable to any industrial insurance dividend or premium discount under RCW 51.16.035 in proportion to the ratio of medical care recipients to other patients at the facility.

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

~~((5))~~ (3) The department shall compute cost savings calculated for the final settlement on closing cost reports using property costs without consideration of any gain or loss on the sale of assets in the report year.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

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

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

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

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

(5) Except travel, lodging, and meal expenses, education and training expenses at sites outside of the states of Idaho, Oregon, and Washington and the province of British Columbia are allowable costs if the expenses meet the requirements of this chapter.

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

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

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

(2) Compensation of the licensed administrator shall be allowable only if the department is given written notice of

the administrator's employment within ten days after the employment begins.

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

(4) The department shall not consider costs of an administrator-in-training for the purpose of setting the administrative prospective rate. The department shall reimburse the costs of an approved administrator-in-training program by an ~~((adjustment))~~ add-on to the current prospective rate; unless, the administrative cost center is at or above the median cost limit for the facility's peer group reduced or increased under WAC 388-96-719. To obtain ~~((an adjustment))~~ a rate add-on, the contractor shall submit a request for an ~~((increase in))~~ add-on to its current prospective rate together with necessary documentation which shall include:

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

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

(c) If the contractor does not use the administrator-in-training funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

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

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

WAC 388-96-534 ((Disclosure and approval of) Joint ((facility)) cost allocation disclosure (JCAD). (1) The contractor shall disclose to the department:

(a) The nature and purpose of all costs representing allocations of joint facility costs; and

(b) The methodology of the allocation utilized.

(2) The contractor shall demonstrate in such disclosure:

(a) The services involved are necessary and nonduplicative; and

(b) Costs are allocated in accordance with benefits received from the resources represented by those costs.

(3) The contractor shall make such disclosure not later than September 30th for each year; except, a new contractor shall submit the first year's disclosure together with the submissions required by WAC 388-96-026.

(4) The department shall ~~((approve such))~~ determine the acceptability of the JCAD methodology not later than December 31, ((1980, and not later than December 31st for)) of each year ((thereafter)). Costs disclosed, allocated, and reported in conformity with a department-approved JCAD

methodology must undergo review and be determined allowable costs for the purposes of rate setting and audit.

(5) An amendment or revision to an approved methodology shall be submitted to the department for approval at least ninety days prior to the effective date of the amendment or revision.

(6) Where a contractor will begin to incur joint facility costs at some time other than the beginning of the calendar year, the contractor shall provide the information required in subsections (1) and (2) of this section at least ninety days prior to the date the cost will first be incurred.

(7) Joint facility costs not disclosed, allocated, and reported in conformity with this section are nonallowable costs.

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

WAC 388-96-559 Cost basis of land and depreciation base. (1) For all partial or whole rate periods after December 31, 1984, the total depreciation base of depreciable assets and the cost basis of land shall be the lowest of:

(a) The contractor's appraisal, if any;

(b) The department's appraisal obtained through the department of general administration of the state of Washington, if any; or

(c) The historical purchase cost of the contractor, or lessor if the assets are leased by the contractor, in acquiring ownership of the asset in an arm's-length transaction, and preparing the asset for use, less goodwill, and less accumulated depreciation, if applicable, incurred during periods the assets have been used in or as a facility by any and all contractors. Such accumulated depreciation is to be measured in accordance with subsection (5) of this section and WAC 388-96-561, 388-96-565, and 388-96-567. ~~((Estimated))~~ Where the straight-line or sum-of-the-years digits method of depreciation is used the contractor:

(i) May deduct salvage values from historical costs for each cloth based item, e.g., mattresses, linen, and draperies; and

(ii) Shall deduct salvage ((value shall be deducted)) values from historical ((cost where the straight line or sum-of-the-years digits method of depreciation is used)) costs of at least:

(A) Five percent of the historical value for each noncloth item included in moveable equipment; and

(B) Twenty-five percent of the historical value for each vehicle.

(2) Unless otherwise provided or limited by this chapter or by chapter 74.46 RCW, the department shall, in determining the total depreciation base of a depreciable real or personal asset owned or leased by the contractor, deduct depreciation relating to all periods subsequent to the more recent of:

(a) The date such asset was first used in the medical care program; or

(b) The most recent date such asset was acquired in an arm's-length purchase transaction which the department is required to recognize for Medicaid cost reimbursement purposes.

No depreciation shall be deducted for periods such asset was not used in the medical care program or was not used to provide nursing care.

(3) The department may have the fair market value of the asset at the time of purchase established by appraisal through the department of general administration of the state of Washington if:

(a) The department challenges the historical cost of an asset; or

(b) The contractor cannot or will not provide the historical cost of a leased asset and the department is unable to determine such historical cost from its own records or from any other source.

The contractor may allocate or reallocate values among land, building, improvements, and equipment in accordance with the department's appraisal.

If an appraisal is conducted, the depreciation base of the asset and cost basis of land will not exceed the fair market value of the asset. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious.

(4) For leased assets, the department may examine documentation in its files or otherwise obtainable from any source to determine:

(a) The lessor's purchase acquisition date; or

(b) The lessor's historical cost at the time of the last arm's-length purchase transaction.

If the department is unable to determine the lessor's acquisition date by review of its records or other records, the department, in determining fair market value as of such date, may use the construction date of the facility, as found in the state fire marshal's records or other records, as the lessor's purchase acquisition date of leased assets.

(5) For all rate periods past or future, where depreciable assets or land are acquired from a related organization, the contractor's depreciation base and land cost basis shall not exceed the base and basis the related organization had or would have had under a contract with the department.

(6) If a contractor cannot or will not provide the lessor's purchase acquisition cost of assets leased by the contractor and the department is unable to determine historical purchase cost from another source, the appraised asset value of land, building, or equipment, determined by or through the department of general administration shall be adjusted, if necessary, by the department using the *Marshall and Swift Valuation Guide* to reflect the value at the lessor's acquisition date. If an appraisal has been prepared for leased assets and the assets subsequently sell in the first arm's-length transaction since January 1, 1980, under subsection (8) of this section, the *Marshall and Swift Valuation Guide* will be used to adjust, if necessary, the asset value determined by the appraisal to the sale date. If the assets are located in a city for which the *Marshall and Swift Valuation Guide* publishes a specific index, or if the assets are located in a county containing that city, the city-specific index shall be used to adjust the appraised value of the asset. If the assets are located in a city or county for which a specific index is not calculated, the *Western District Index* calculated by Marshall and Swift shall be used.

(7) For all rates effective on or after January 1, 1985, if depreciable assets or land are acquired by purchase which were used in the medical care program on or after January

1, 1980, the depreciation base or cost basis of such assets shall not exceed the net book value existing at the time of such acquisition or which would have existed had the assets continued in use under the previous Medicaid contract with the department; except that depreciation shall not be accumulated for periods during which such assets were not used in the medical care program or were not in use in or as a nursing care facility.

(8)(a) Subsection (7) of this section shall not apply to the most recent arm's-length purchase acquisition if it occurs ten years or more after the previous arm's-length transfer of ownership nor shall subsection (7) of this section apply to the first arm's-length purchase acquisition of assets occurring on or after January 1, 1980, for facilities participating in the Medicaid program before January 1, 1980. The depreciation base or cost basis for such acquisitions shall not exceed the lesser of the fair market value as of the date of purchase of the assets determined by an appraisal conducted by or through the department of general administration or the owner's acquisition cost of each asset, land, building, or equipment. An appraisal conducted by or through the department of general administration shall be final unless the appraisal is shown to be arbitrary and capricious. Should a contractor request a revaluation of an asset, the contractor must document ten years have passed since the most recent arm's-length transfer of ownership. As mandated by Section 2314 of the Deficit Reduction Act of 1984 (P.L. 98-369) and state statutory amendments, and under RCW 74.46.840, for all partial or whole rate periods after July 17, 1984, this subsection is inoperative for any transfer of ownership of any asset, including land and all depreciable or nondepreciable assets, occurring on or after July 18, 1984, leaving subsection (7) of this section to apply without exception to acquisitions occurring on or after July 18, 1984, except as provided in subsections (8)(b) and (9) of this section.

(b) For all rates after July 17, 1984, subsection (8)(a) shall apply, however, to transfers of ownership of assets:

(i) Occurring before January 1, 1985, if the costs of such assets have never been reimbursed under Medicaid cost reimbursement on an owner-operated basis or as a related party lease; or

(ii) Under written and enforceable purchase and sale agreements dated before July 18, 1984, which are documented and submitted to the department before January 1, 1988.

(c) For purposes of Medicaid cost reimbursement under this chapter, an otherwise enforceable agreement to purchase a nursing home dated before July 18, 1984, shall be considered enforceable even though the agreement contains:

(i) No legal description of the real property involved; or

(ii) An inaccurate legal description, notwithstanding the statute of frauds or any other provision of law.

(9)(a) In the case of land or depreciable assets leased by the same contractor since January 1, 1980, in an arm's-length lease, and purchased by the lessee/contractor, the lessee/contractor shall have the option to have the:

(i) Provisions of subsection (8) of this section apply to the purchase; or

(ii) Reimbursement for property and return on investment continue to be calculated under the provisions contained in RCW 74.46.530 (1)(e) and (f) and WAC 388-96-754(5). Reimbursement shall be based upon provisions of the lease in existence on the date of the purchase.

(b) The lessee/contractor may select the option in subsection (9)(a)(ii) of this section only when the purchase date meets one of the following criteria. The purchase date is:

(i) After the lessor has declared bankruptcy or has defaulted in any loan or mortgage held against the leased property;

(ii) Within one year of the lease expiration or renewal date contained in the lease;

(iii) After a rate setting for the facility in which the reimbursement rate set, under this chapter and under chapter 74.46 RCW, no longer is equal to or greater than the actual cost of the lease; or

(iv) Within one year of any purchase option in existence on January 1, 1988.

(10) For purposes of establishing the property and return on investment component rates, the value of leased equipment, if unknown by the contractor, may be estimated by the department using previous department of general administration appraisals as a data base. The estimated value may be adjusted using the *Marshall and Swift Valuation Guide* to reflect the value of the asset at the lessor's purchase acquisition date.

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

WAC 388-96-565 Lives. (1) The contractor shall use lives reflecting the estimated actual useful life of assets, for example, land improvements, buildings, equipment, leasehold improvements, and other assets. Lives shall not be ~~((no))~~ shorter than guideline lives ~~((contained in the Internal Revenue Service class life ADR system or))~~ published by the American Hospital Association in computing allowable depreciation. The shortest building life a contractor may use is thirty years~~((;))~~; *provided* that, in cases of newly constructed buildings containing newly licensed nursing home beds, the shortest lives shall be the ~~((following))~~ most recently published lives for construction ~~((class))~~ classes as defined and described in the *Marshall Valuation Service* published by the Marshall Swift Publication Company~~((—A or B class—forty five years; C class—thirty five years; and D class—thirty years))~~.

(2) The contractor shall measure lives from the date on which the assets were first used in the medical care program or from the date of the most recent arm's-length acquisition by purchase of the asset, whichever is more recent. The contractor shall extend lives to reflect periods, if any, during which assets were not used to provide nursing care or were not used in the medical care program.

(3) Contractors shall depreciate building improvements over the remaining useful life of the building, as modified by the improvement, but not less than fifteen years.

(4) Improvements to leased property which are the responsibility of the contractor under the terms of the lease shall be depreciated over the useful life of the improvement.

(5) A contractor may change the estimate of an asset's useful life to a longer life for purposes of depreciation.

AMENDATORY SECTION (Amending Order 3615, filed 8/11/93, effective 9/11/93)

WAC 388-96-585 Unallowable costs. (1) The department shall not allow costs if not documented, necessary, ordinary, and related to the provision of care services to authorized patients.

(2) The department shall include, but not limit unallowable costs to the following:

(a) Costs of items or services not covered by the medical care program. Costs of nonprogram items or services even if indirectly reimbursed by the department as the result of an authorized reduction in patient contribution;

(b) Costs of services and items ~~((provided to SNF or ICF recipients))~~ covered by the ~~((department's medical care program))~~ Medicaid program but not included in ~~((SNF or ICF services respectively))~~ the Medicaid nursing facility daily payment rate. Items and services covered by the ~~((medical care program))~~ Medicaid nursing facility daily payment rate are listed in chapters 388-86 and 388-88 WAC;

(c) Costs associated with a capital expenditure subject to Section 1122 approval (Part 100, Title 42 C.F.R.) if the department found the capital expenditure inconsistent with applicable standards, criteria, or plans. If the contractor did not give the department timely notice of a proposed capital expenditure, all associated costs shall be nonallowable as of the date the costs are determined not to be reimbursable under applicable federal regulations;

(d) Costs associated with a construction or acquisition project requiring certificate of need approval pursuant to chapter 70.38 RCW if such approval was not obtained;

(e) Costs of outside activities (e.g., costs allocable to the use of a vehicle for personal purposes or related to the part of a facility leased out for office space);

(f) Salaries or other compensation of owners, officers, directors, stockholders, and others associated with the contractor or home office, except compensation paid for service related to patient care;

(g) Costs in excess of limits or violating principles set forth in this chapter;

(h) Costs resulting from transactions or the application of accounting methods circumventing the principles of the prospective cost-related reimbursement system;

(i) Costs applicable to services, facilities, and supplies furnished by a related organization in excess of the lower of the cost to the related organization or the price of comparable services, facilities, or supplies purchased elsewhere;

(j) Bad debts. Beginning July 1, 1983, the department shall allow bad debts of Title XIX recipients only if:

(i) The debt is related to covered services;

(ii) It arises from the recipient's required contribution toward the cost of care;

(iii) The provider can establish reasonable collection efforts were made;

(iv) The debt was actually uncollectible when claimed as worthless; and

(v) Sound business judgment established there was no likelihood of recovery at any time in the future.

Reasonable collection efforts shall consist of three documented attempts by the contractor to obtain payment. Such documentation shall demonstrate the effort devoted to collect the bad debts of Title XIX recipients is at the same

level as the effort normally devoted by the contractor to collect the bad debts of non-Title XIX patients. Should a contractor collect on a bad debt, in whole or in part, after filing a cost report, reimbursement for the debt by the department shall be refunded to the department to the extent of recovery. The department shall compensate a contractor for bad debts of Title XIX recipients at final settlement through the final settlement process only.

(k) Charity and courtesy allowances;

(l) Cash, assessments, or other contributions, excluding dues, to charitable organizations, professional organizations, trade associations, or political parties, and costs incurred to improve community or public relations. Any portion of trade association dues attributable to legal and consultant fees and costs in connection with lawsuits or other legal action against the department shall be unallowable;

(m) Vending machine expenses;

(n) Expenses for barber or beautician services not included in routine care;

(o) Funeral and burial expenses;

(p) Costs of gift shop operations and inventory;

(q) Personal items such as cosmetics, smoking materials, newspapers and magazines, and clothing, except items used in patient activity programs where clothing is a part of routine care;

(r) Fund-raising expenses, except expenses directly related to the patient activity program;

(s) Penalties and fines;

(t) Expenses related to telephones, televisions, radios, and similar appliances in patients' private accommodations;

(u) Federal, state, and other income taxes;

(v) Costs of special care services except where authorized by the department;

(w) Expenses of ~~((key-man insurance and other insurance or retirement plans))~~ any employee benefit not in fact made available to all employees on an equal or fair basis in terms of costs to employees and benefits commensurate to such costs, e.g., key-man insurance, other insurance, or retirement plans;

(x) Expenses of profit-sharing plans;

(y) Expenses related to the purchase and/or use of private or commercial airplanes which are in excess of what a prudent contractor would expend for the ordinary and economic provision of such a transportation need related to patient care;

(z) Personal expenses and allowances of owners or relatives;

(aa) All expenses for membership in professional organizations and all expenses of maintaining professional licenses ((or membership in professional organizations)), e.g., nursing home administrator's license;

(bb) Costs related to agreements not to compete;

(cc) Goodwill and amortization of goodwill;

(dd) Expense related to vehicles which are in excess of what a prudent contractor would expend for the ordinary and economic provision of transportation needs related to patient care;

(ee) Legal and consultant fees in connection with a fair hearing against the department relating to those issues where:

(i) A final administrative decision is rendered in favor of the department or where otherwise the determination of

the department stands at the termination of administrative review; or

(ii) In connection with a fair hearing, a final administrative decision has not been rendered; or

(iii) In connection with a fair hearing, related costs are not reported as unallowable and identified by fair hearing docket number in the period they are incurred if no final administrative decision has been rendered at the end of the report period; or

(iv) In connection with a fair hearing, related costs are not reported as allowable, identified by docket number, and prorated by the number of issues decided favorably to a contractor in the period a final administrative decision is rendered.

(ff) Legal and consultant fees in connection with a lawsuit against the department, including suits which are appeals of administrative decisions;

(gg) Lease acquisition costs and other intangibles not related to patient care;

(hh) Interest charges assessed by the state of Washington for failure to make timely refund of overpayments and interest expenses incurred for loans obtained to make such refunds;

(ii) Beginning January 1, 1985, lease costs, including operating and capital leases, except for office equipment operating lease costs;

(jj) Beginning January 1, 1985, interest costs;

(kk) Travel expenses outside the states of Idaho, Oregon, and Washington, and the Province of British Columbia. However, travel to or from the home or central office of a chain organization operating a nursing home will be allowed whether inside or outside these areas if such travel is necessary, ordinary, and related to patient care;

(ll) Board of director fees for services in excess of one hundred dollars per board member, per meeting, not to exceed twelve meetings per year;

(mm) Moving expenses of employees in the absence of a demonstrated, good-faith effort to recruit within the states of Idaho, Oregon, and Washington, and the Province of British Columbia;

(nn) For rates effective after June 30, 1993, depreciation expense in excess of four thousand dollars per year for each passenger car or other vehicles primarily used for the administrator, facility staff, or central office staff;

(oo) Any costs associated with the use of temporary health care personnel from any nursing pool not registered with the director of the department of health at the time of such pool personnel use;

(pp) Costs of payroll taxes associated with compensation in excess of allowable compensation for owners, relatives, and administrative personnel;

(qq) Department-imposed postsurvey charges incurred by the facility as a result of subsequent inspections which occur beyond the first postsurvey visit during the certification survey calendar year;

(rr) For all partial or whole rate periods after July 17, 1984, costs of assets, including all depreciable assets and land, which cannot be reimbursed under the provisions of the Deficit Reduction Act of 1984 (DEFRA) and state statutes and regulations implementing DEFRA;

(ss) Effective for July 1, 1991, and all following rates, compensation paid for any purchased nursing care services,

including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement in excess of the amount of compensations which would have been paid for such hours of nursing care services had they been paid at the combined regular and overtime average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification of registered nurse, licensed practical nurse, or nursing assistant at the same nursing facility, as reported on the facility's filed cost report for the most recent cost report period;

(tt) Outside consultation expenses required pursuant to WAC 388-88-135;

(uu) Fees associated with filing a bankruptcy petition under chapters VII, XI, and XIII, pursuant to the Bankruptcy Reform Act of 1978, Public Law 95-598;

(vv) All advertising or promotional costs of any kind, except reasonable costs of classified advertising in trade journals, local newspapers, or similar publications for employment of necessary staff.

AMENDATORY SECTION (Amending Order 1892, filed 10/13/82)

WAC 388-96-704 Prospective reimbursement rates.

(1) The department will determine prospective reimbursement rates for ~~((SNF and ICF))~~ services provided to recipients. Each rate represents the contractor's maximum compensation for one patient day of care of a recipient determined by the department to require ~~((SNF or ICF))~~ nursing facility care.

(2) A contractor may also be assigned an individual prospective rate for a specific recipient determined by the department to require exceptional care.

AMENDATORY SECTION (Amending Order 3615 [3555], filed 8/11/93 [5/26/93], effective 9/11/93 [6/26/93])

WAC 388-96-709 Prospective rate revisions—Reduction in licensed beds. (1) The department will revise a contractor's prospective rate when the contractor reduces the number of its licensed beds and:

(a) Notifies the department in writing thirty days before the licensed bed reduction; and

(b) Supplies a copy of the new bed license and documentation of the number of beds sold, exchanged or otherwise placed out of service, along with the name of the contractor that received the beds, if any; and

(c) Requests a rate revision.

(2) The revised prospective rate shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums unless otherwise specified in this section and remain in effect until a prospective rate can be set according to WAC 388-96-713.

(3) The revised prospective rate shall be effective the first of a month determined by where in the month the effective date of the licensed bed reduction occurs or the date the contractor complied with subsections 1(a), (b), and (c) of this section as follows:

(a) If the contractor complied with subsection 1(a), (b), and (c) of this section and the effective date of the reduction falls:

(i) Between the first and the fifteenth of the month, then the revised prospective rate is effective the first of the month in which the reduction occurs; or

(ii) Between the sixteenth and the end of the month, then the revised prospective rate is effective the first of the month following the month in which the reduction occurs; or

(b) When the contractor fails to comply with subsection 1(a) of this section, then the date the department receives from the contractor the documentation that is required by subsection 1(b) and (c) of this section shall become the effective date of the reduction for the purpose of applying subsection 3(a)(i) and (ii) of this section.

(4) For the first fiscal year of a state biennium, if a contractor's prospective rate is based on either WAC 388-96-710(4) or WAC 388-96-719(2), the department shall revise the contractor's prospective rate as follows:

(a) For the nursing service and food cost centers, the rate will remain the same as before the reduction in licensed beds;

(b) For property, ~~((administration))~~ administrative, and ~~((operations))~~ operational cost centers; and return on investment rate, the department will use the reduced total of licensed beds to determine occupancy level under WAC ~~((388-96-719(4)))~~ 388-96-719(10). If the department computed the contractor's occupancy level of licensed beds ((computed)) on the ((most recent, complete, desk-reviewed annual)) Medicaid cost report ((before the licensed bed reduction)) for the calendar year immediately prior to the first fiscal year of the state biennium in which the bed reduction occurs and the occupancy level:

(i) Was above eighty-five percent and remains above eighty-five percent after the reduction, then the department will:

(A) Not change the ~~((administration))~~ administrative and ~~((operation))~~ operational rate;

(B) Recompute the property rate to reflect the new asset basis using actual patient days from the Medicaid cost report for the prior calendar year; and

(C) Recompute the return on investment rate to reflect the new asset basis and the change in the property cost center using actual patient days from the Medicaid cost report for the prior calendar year.

(ii) Was below eighty-five percent and changes to at or above eighty-five percent after the reduction, then the department will recompute rates for:

(A) ~~((Administration))~~ Administrative and ~~((operations))~~ operational cost centers using actual patient days from the Medicaid cost report for the calendar year immediately prior to the first fiscal year of the state biennium in which the bed reduction occurs; and

(B) Property and return on investment ~~((rates))~~ cost centers using actual patient days from the Medicaid cost report for the prior calendar year and the new asset basis.

(iii) Was below eighty-five percent and remains below eighty-five percent after the reduction, then the department will recompute rates for:

(A) ~~((Administration))~~ Administrative and ~~((operation))~~ operational cost centers using the change in patient days from the Medicaid cost report for the calendar year immediately prior to the first fiscal year of the state biennium in which the bed reduction occurs that results from the reduced

number of licensed beds used in calculating the eighty-five percent occupancy level; and

(B) Property and return on investment cost centers using the change in patient days from the Medicaid cost report for the prior calendar year that results from the reduced number of licensed beds used in calculating the eighty-five percent occupancy level and to reflect the new asset basis.

(5) For the second fiscal year of a state biennium, the department shall revise the contractor's prospective rate, as identified under subsection (4) of this section, as follows:

(a) For the nursing service and food cost centers, the rate will remain the same as before the reduction in licensed beds;

(b) For property and return on investment rates and to determine a new occupancy level under WAC 388-96-719(10), the department will use the reduced total of licensed beds and the cost report from the prior calendar year;

(c) If the occupancy level prior to the bed reduction:

(i) Was above eighty-five percent and remains above eighty-five percent after the reduction, then the department will:

(A) Not revise the administrative or operational rates; and

(B) Recompute the property rate to reflect the new asset basis using actual patient days from the Medicaid cost report for the prior calendar year; and

(C) Recompute the return on investment rate to reflect the new asset basis and the change in the property cost center using actual patient days from the Medicaid cost report for the prior calendar year.

(ii) Was below eighty-five percent and changes to eighty-five percent or above after the reduction, then the department will:

(A) Not revise the administrative or operational rates; and

(B) Revise property and return on investment using actual patient days from the Medicaid cost report for the prior calendar year and the new asset basis.

(iii) Was below eighty-five percent and remains below eighty-five percent after the reduction, then the department will:

(A) Not revise administrative or operational rates; and

(B) Revise the property and return on investment rates using the change in patient days from the Medicaid cost report for the prior calendar year that results from the reduced number of licensed beds used in calculating the eighty-five percent occupancy level and to reflect the new asset basis.

(6) If a contractor's prospective rate is based on either a sample or budget per WAC 388-96-710, the department shall revise the contractor's prospective rate by applying subsection (4)(a) and (b) or (5)(a) and (b) of this section as applicable and:

(a) Using the days from the timely received budget per WAC 388-96-026(2) and using occupancy as "selected" by the department when the initial rate was set; or

(b) If the budget was not received timely in accordance with WAC 388-96-026(2), using the product of the statewide average occupancy as reported on all nursing facilities' prior calendar year Medicaid cost reports multiplied by the number of calendar days in the calendar year following the

decrease licensed bed capacity multiplied by the number of licensed beds on the new license.

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

AMENDATORY SECTION (Amending Order 3615, filed 8/11/93, effective 9/11/93)

WAC 388-96-710 Prospective reimbursement rate for new contractors. (1) The department shall establish an initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(a) or (b) within sixty days following receipt by the department of a properly completed projected budget (see WAC 388-96-026). The rate shall take effect as of the effective date of the contract and shall comply with all the provisions of rate setting contained in this chapter including all lids and maximums set forth in this chapter.

(2) To set the initial prospective reimbursement rate for a new contractor as defined in WAC 388-96-026 (1)(a) and (b), the department shall:

(a) Determine whether the new contractor belongs to the metropolitan statistical area (MSA) peer group or the non-MSA peer group using the latest information received from the office of management and budget or the appropriate federal agency;

(b) Select all nursing facilities from the department's records of all the current Medicaid nursing facilities in the new contractor's peer group with the same bed capacity plus or minus ten beds. If the selection does not result in at least seven facilities, then the department will increase the bed capacity by plus or minus five bed increments until a sample of at least seven nursing facilities is obtained; ~~(and)~~

(c) Based ~~((upon))~~ on the ~~((most recent))~~ information for the nursing facilities selected under subsection (2)(b) of this section and available to the department ~~((for the nursing facilities selected under subsection (2)(b) of this section))~~ on the day the new contractor began participating in the program, rank from the highest to the lowest ~~((to the highest))~~ the rates in nursing services, food, administrative, and operational cost centers and based on this ranking:

(i) Determine the rate in the middle of the ranking, above and below which lie an equal number of rates (median) and then identify the rate immediately above the median for each cost center identified in subsection (2)(c) of this section. The rate immediately above the median will be known as the "selected rate" for each cost center; and

(ii) Set the new contractor's rates for each cost center identified in subsection (2)(c) at the lower of the "selected rate" or the budget rate; and

(iii) Set the property rate in accordance with the provisions of this chapter; and

(iv) Set the return on investment rate in accordance with the provisions of this chapter. In computing the financing allowance, the department shall use for the nursing services, food, administrative, and operational cost centers the rates set pursuant to subsection (2)(c)(i) and (ii) of this section.

(d) Any subsequent revisions to the rate components of the sample members will not impact a "selected rate" component of the initial prospective rate established for the new contractor under this subsection; *unless*, a "selected

rate" identified in subsection (2)(c) is at the median cost limit established for July 1, then the median cost limit established after October 31 for that "selected rate" component becomes the component rate for the new contractor.

(3) If the department has not received a properly completed projected budget from the new contractor as defined under WAC 388-96-026 (1)(a) or (b) at least sixty days prior to the effective date of the new contract, the department shall establish rates for:

(a) Nursing services, food, administrative and operational cost centers based on the "selected rates" as determined under subsection (2)(c) of this section that are in effect on the date the new contractor began participating in the program; and

(b) Property in accordance with the provisions of this chapter using for the new contractor as defined under:

(i) ~~((As defined under))~~ WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) ~~((As defined under))~~ WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the property rate will be zero. The property rate will remain zero until the information is received.

(c) Return on investment rate in accordance with the provisions of this chapter using the "selected rates" established under subsection (2)(c) of this section that are in effect on the date the new contractor began participating in the program, to compute the working capital provision and variable return for the new contractor as defined under:

(i) ~~((As defined under))~~ WAC 388-96-026 (1)(a), information from the certificate of need; or

(ii) ~~((As defined under))~~ WAC 388-96-026 (1)(b), information provided by the new contractor within ten days of the date the department requests the information in writing. If the contractor as defined under WAC 388-96-026 (1)(b), has not provided the requested information within ten days of the date requested, then the net book value of allowable assets will be zero. The financing allowance rate component will remain zero until the information is received.

(4) The initial prospective reimbursement rate for a new contractor as defined under WAC 388-96-026 (1)(c), shall be the last prospective reimbursement rate paid by the department to the Medicaid contractor operating the nursing facility immediately prior to the effective date of the new contract.

(5) If the new contractor as defined under WAC 388-96-026 (1)(a), (b), or (c) began participating in the program beginning in the first year of a state fiscal biennium or had its first year of a state fiscal biennium rate set under WAC 388-96-710(6), its July 1 prospective reimbursement rate for the second year of that state fiscal biennium shall:

(a) Be the initial prospective rate set in accordance with WAC 388-96-710 inflated in accordance with WAC 388-96-719; and

(b) Remain in effect until a prospective rate can be set under WAC 388-96-713.

(6) If the new contractor began participating in the program beginning in the second year of a state fiscal biennium, its July 1 prospective reimbursement rate for the

first year of the next state fiscal biennium will be set for the new contractor defined under:

(a) WAC 388-96-026 (1)(a) and (b), by applying WAC 388-96-710 (2) and (3) using the July 1 rate components established for the first year of the state's fiscal biennium following the second year of the state's fiscal biennium in which the new contractor began participating in the program; or

(b) WAC 388-96-026 (1)(c), by using twelve months of cost report data derived from the old contractor's data and the new contractor's data for the cost report year prior to the first year of the state fiscal biennium for which the rate is being set and applying WAC 388-96-719 through 388-96-754 to set the component rates.

(7) For July 1, 1993 rate setting only, if a new contractor as defined under WAC 388-96-026(1) is impacted by the peer group median cost plus twenty-five percent limit in its nursing services cost, such contractor shall not receive a per patient day prospective rate in nursing services for July 1, 1993 lower than the same contractor's prospective rate in nursing services as of June 30, 1993, as reflected in departmental records as of that date, inflated by any increase in the IPD Index authorized by WAC 388-96-719.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-719 Method of rate determination. (1)

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

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

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

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

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

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

(b) Subtracting from the expenditure levels taken from the quarterly IPD Index described in subsection (5)(a) of this section the expenditure levels taken from the IPD Index for the quarter occurring one year prior to the quarterly IPD Index described in subsection (5)(a) of this section; and

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

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

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

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

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

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

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

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

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

(b) Subtracting from the price levels taken from the quarterly HCFA Index described in subsection (9)(a) of this subsection the price levels taken from the HCFA Index for the quarter occurring one year prior to the quarterly HCFA Index described in subsection (9)(a) of this section; and

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

(10) The department shall compute the occupancy level for each facility in accordance with the following:

(a) For the first fiscal year of a state biennium, by dividing the actual number of patient days from the Medicaid cost report for the calendar year immediately prior to the first fiscal year of that state biennium by the product of the numbers of licensed beds ((and)) multiplied by calendar days in the cost report period. ((If a facility's occupancy is below eighty-five percent, the department shall compute, per patient day, return on investment, property, administrative, and operational prospective rates and limits utilizing patient days at the eighty-five percent occupancy level. The department shall use actual occupancy level for facilities at or above eighty-five percent occupancy)) If a facility's occupancy level is:

(i) At or above eighty-five percent, the department shall compute per patient day prospective rates and limits for nursing, food, administrative, operational, property and return on investment components using actual patient days;

(ii) Below eighty-five percent, the department shall compute per patient day prospective rates and limits for:

(A) Nursing and food components using actual patient days; and

(B) Administrative, operational, property and return on investment components using patient days at the eighty-five percent occupancy level.

(b) For the second fiscal year of a biennium, the department shall compute the occupancy level by dividing the actual number of patient days from the Medicaid cost report for the calendar year immediately prior to the second fiscal year of that biennium by the product of the number of licensed beds multiplied by calendar days in that report period. The department shall:

(i) Compute the per patient day return on investment rate and prospective property rate when a facility's occupancy level is:

(A) At or above eight-five percent occupancy level, using actual patient days; or

(B) Below eighty-five percent using patient days at the eighty-five percent occupancy level.

(ii) Not adjust nursing, food, administrative and occupational rates for any change to actual patient days, calendar days, and/or occupancy as reported on the Medicaid cost report for the calendar year immediately prior to the second fiscal year of that state biennium. For bed increases or decreases the department shall use WAC 388-96-709 and other applicable WACs to determine occupancy level.

(c) For new contractors as defined under WAC 388-96-026 (a) or (b), occupancy shall be based on a minimum of

eighty-five percent for administrative, operations, property and return on investment.

(11) If a nursing home provides residential care to individuals other than those receiving nursing facility care:

(a) The facility may request in writing, and

(b) The department may grant in writing an exception to the requirements of subsection (10) of this section by including such other residents in computing occupancy. Exceptions granted shall be revocable effective ninety days after written notice of revocation is received from the department. ~~((No))~~ The department shall not grant an exception ((shall be granted)) unless the contractor submits with the annual cost report a certified statement of occupancy including all residents of the facility and their status or level of care.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)**WAC 388-96-722 Nursing services cost area rate.**

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

(2) In addition to other limits contained in this chapter, the department shall subject nursing service costs to a test for nursing staff hours according to the procedures set forth in subsection (3) of this section.

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

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

(b) The average patient debility score for the corresponding facilities as computed by the department. The department shall compute the regression every two years which shall be effective for the entire biennium, beginning July 1, 1993, and shall take data for the regression from:

(i) Correctly completed cost reports; and

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

(A) The hours exceeding the limit;

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

(4) For all rates effective after June 30, 1991, nursing services costs, as reimbursed within this chapter, shall not include costs of any purchased nursing care services, including registered nurse, licensed practical nurse, and nurse assistant services, obtained through service contract arrangement (commonly referred to as "nursing pool" services), in excess of the amount of compensation which would have been paid for such hours of nursing care service had they been paid at the average hourly wage, including related taxes and benefits, for in-house nursing care staff of like classification at the same nursing facility, as reported in the most recent cost report period.

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

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

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

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

(ii) ~~((Those))~~ Not located within such an area (non-MSA facilities).

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by magnitude of per patient day adjusted nursing services cost from the prior cost report year, which shall include all costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate ~~((adjustments))~~ add-ons, granted under the authority of WAC 388-96-774 and WAC 388-96-777 and

commencing in the prior cost report year, shall be included in costs arrayed (~~(, however,)~~). Costs current-funded by rate ((adjustments)) add-ons commencing January 1 through June 30 following the prior cost report year shall be excluded from costs arrayed.

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

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

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

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

(8) (~~(Adjustments previously)~~) Rate add-ons made to current fund nursing services costs, pursuant to WAC 388-96-774 and WAC 388-96-777 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed (~~(and no)~~). A facility shall not receive, based (~~(upon)~~) on any calculation or consideration of any such prior report year (~~(adjustment)~~) rate add-ons, a July 1 nursing services rate higher than that provided in subsection (7) of this section.

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

(10) For July 1, 1993 rate setting only, nursing services rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's nursing services rate established under subsection (7) of this section. For all rate setting beginning July 1, 1995 and following, (~~(such rate increases to reflect)~~) the department shall add nursing services rate (~~(adjustments)~~) add-ons, granted under authority of WAC 388-96-774 and WAC 388-96-777 and commencing from January 1 through June 30 preceding the start of (~~(the)~~) a state biennium, (~~(shall be added)~~) to a nursing facility's rate in nursing services, but only up to the facility's peer group median cost plus twenty-five percent limit.

(11) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted nursing services cost report information in departmental records as

of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 rate for the first fiscal year in nursing services based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's nursing services rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

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

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

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

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

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-727 Food cost area rate. (1) The food cost center shall include for cost reporting purposes all costs of bulk and raw food and beverages purchased for the dietary needs of the nursing facility residents.

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

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

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

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

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by

magnitude of per patient day adjusted food cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. The department shall include costs current-funded by means of rate ((adjustments)) add-ons, granted under the authority of ((WAC 388-96-774)) WAC 388-96-777 and commencing in the prior cost report year, ((shall be included)) in costs arrayed((; however)). The department shall exclude costs current-funded by rate ((adjustments)) add-ons granted under the authority of WAC 388-96-777 and commencing January 1 through June 30 following the prior cost report year ((shall be excluded)) from costs arrayed.

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

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

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

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

(4) ~~((Adjustments previously))~~ Rate add-ons made to current fund food costs, pursuant to ~~((WAC 388-96-774))~~ WAC 388-96-777 and commencing in the prior cost report year, shall be reflected in first fiscal year of a state biennium prospective rates only by their inclusion in the costs arrayed ~~((and no))~~. A facility shall not receive, based ((upon)) on any calculation or consideration of any such prior report year ((adjustment)) rate add-ons, a July 1 food rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, food rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's food rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, ~~((such rate increases to reflect))~~ the department shall add food rate ((adjustments)) add-ons, granted under authority of ((WAC 388-96-774)) WAC 388-96-777 and commencing from January 1 through June 30 preceding the start of ((the)) a state biennium, ((shall be added)) to a nursing facility's rate in food, but only up to the facility's peer group median cost plus twenty-five percent limit.

(6) Subsequent to issuing the first fiscal year July 1 rates, the department shall recalculate the median costs of each peer group based upon the most recent adjusted food

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

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

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

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

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-735 Administrative cost area rate. (1)

The administrative cost center shall include for cost reporting purposes all administrative, oversight, and management costs, whether incurred at the facility or allocated in accordance with a department-approved joint cost allocation methodology. Such costs shall be identical to the cost report line items categorized on the 1992 calendar year report under "general and administrative" within the administration and operations (A&O) combined cost center existing for reporting purposes prior to January 1, 1993, with the exception of nursing supplies and purchased and allocated medical records. The department shall issue cost reporting instructions identifying administrative costs for 1993 and following cost report years.

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

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

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

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

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by

magnitude of per patient day adjusted administrative cost from the prior cost report year, excluding the costs of nursing supplies and purchased and allocated medical records, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. The department shall include costs current-funded by means of rate ((adjustments)) add-ons, granted under the authority of ((WAC 388-96-774)) WAC 388-96-777 and commencing in the prior cost report year, ((shall be included)) in costs arrayed((+however)). The department shall exclude costs current-funded by rate ((adjustments)) add-ons granted under the authority of WAC 388-96-777 and commencing January 1 through June 30 following the prior cost report year ((shall be excluded)) from costs arrayed.

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

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

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

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

(4) ~~((Adjustments previously))~~ Rate add-ons made to current fund administrative costs, pursuant to ~~((WAC 388-96-774))~~ WAC 388-96-777 and commencing in the prior cost report year, shall be reflected in first fiscal year of a state biennium prospective rates only by their inclusion in the costs arrayed ~~((and no))~~. A facility shall not receive, based ((upon)) on the calculation or consideration of any such prior report year adjustment, a July 1 administrative rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, administrative rate adjustments, granted under authority of WAC 388-96-774 and commencing from January 1, 1993 through June 30, 1993, shall be added to a facility's administrative rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, ~~((such rate increases to reflect))~~ the department shall add administrative rate ((adjustments)) add-ons, granted under authority of ((WAC 388-96-774)) WAC 388-96-777 and commencing from January 1 through June 30 preceding the start of ((the)) a state biennium, ((shall be added)) to a facility's administrative rate, but only up to the facility's peer group median cost plus ten percent limit.

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

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

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

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

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

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-737 Operational cost area rate. (1) The operational cost center shall include for cost reporting purposes all allowable costs having a direct relationship to the daily operation of the nursing facility (but not including nursing services and related care, food, administrative, or property costs), whether such operating costs are incurred at the facility or are allocated in accordance with a department-approved joint cost allocation methodology.

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

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

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

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

(b) Prior to any adjustment for economic trends and conditions under WAC 388-96-719, the facilities in each peer group shall be arrayed from lowest to highest by

magnitude of per patient day adjusted operational cost from the prior cost report year, regardless of whether any such adjustments are contested by the nursing facility. All available cost reports from the prior cost report year having at least six months of cost report data shall be used, including all closing cost reports covering at least six months. Costs current-funded by means of rate ~~((adjustments))~~ add-ons, granted under the authority of WAC 388-96-774 and WAC 388-96-777 and commencing in the prior cost report year, shall be included in costs arrayed ~~(; however,)~~. The department shall exclude costs current-funded by rate ~~((adjustments))~~ add-ons commencing January 1 through June 30 following the prior cost report year ~~((shall be excluded))~~ from costs arrayed.

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

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

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

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

(4) ~~((Adjustments previously))~~ Rate add-ons made to current fund operational costs, pursuant to WAC 388-96-774 and WAC 388-96-777 and commencing in the prior cost report year, shall be reflected in first fiscal year prospective rates only by their inclusion in the costs arrayed ~~((and no))~~. A facility shall not receive, based ~~((upon))~~ on the calculation or consideration of any such prior report year ~~((adjustment))~~ rate add-ons, a July 1 operational rate higher than that provided in subsection (3) of this section.

(5) For July 1, 1993 rate setting only, operational rate adjustments, granted under authority of WAC 388-96-774 and commencing January 1, 1993 through June 30, 1993, shall be added to a facility's operational rate established under subsection (3) of this section. For all rate setting beginning July 1, 1995 and following, ~~((such rate increases to reflect))~~ the department shall add operational rate ~~((adjustments))~~ add-ons, granted under authority of WAC 388-96-774 and WAC 388-96-777 and commencing from January 1 through June 30 preceding the start of ~~((the))~~ a state biennium ~~((shall be added))~~ to a facility's operational rate, but only up to the facility's peer group median cost plus twenty-five percent limit.

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

as of October 31 of the first fiscal year of each biennium. For any facility which would have received a higher or lower July 1 operational rate for the first fiscal year based upon the recalculation of that facility's peer group median costs, the department shall reissue that facility's operational rate reflecting the recalculation, retroactive to July 1 of the first fiscal year.

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

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

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

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

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

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

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

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

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

(4) If a capitalized addition or retirement of an asset will result in a different licensed bed capacity during the ~~((ensuing period, the department shall adjust the prior period total patient days used in computing the property cost center rate to anticipated))~~ calendar year following the capitalized addition or replacement, patient ~~((day level))~~ days from the cost report for the calendar year immediately prior to the capitalized addition or replacement that were used in computing the property component rate will be adjusted to the product of the occupancy level derived from the cost report used to compute the property component rate at the time of the increased licensed bed capacity multiplied by the number of calendar days in the calendar year following the increased licensed bed capacity multiplied by the number of licensed beds on the new license. If a capitalized addition,

replacement, or retirement results in a decreased licensed bed capacity, WAC 388-96-709 will apply.

(5) When a facility is constructed, remodeled, or expanded after obtaining a certificate of need, the department shall determine actual and allocated allowable land cost and building construction cost. Reimbursement for such allowable costs, determined pursuant to the provisions of this chapter, shall not exceed the maximums set forth in this subsection and in subsections (4), (5), and (6) of this section. The department shall determine construction class and types through examination of building plans submitted to the department and/or on-site inspections. The department shall use definitions and criteria contained in the *Marshall and Swift Valuation Service* published by the Marshall and Swift Publication Company. Buildings of excellent quality construction shall be considered to be of good quality, without adjustment, for the purpose of applying these maximums.

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

- (a) Architect's fees;
- (b) Engineers' fees (including plans, plan check and building permit, and survey to establish building lines and grades);
- (c) Interest on building funds during period of construction and processing fee or service charge;
- (d) Sales tax on labor and materials;
- (e) Site preparation (including excavation for foundation and backfill);
- (f) Utilities from structure to lot line;
- (g) Contractors' overhead and profit (including job supervision, workmen's compensation, fire and liability insurance, unemployment insurance, etc.);
- (h) Allocations of costs which increase the net book value of the project for purposes of Medicaid reimbursement;
- (i) Other items included by the *Marshall and Swift Valuation Service* when deriving the calculator method costs.

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

BASE CONSTRUCTION COST LIMITS

COMMON-USE AREA COST LIMITS

74 BEDS & UNDER

Building Class	Base per Bed Limit	Base Limit
A-Good	\$50,433	\$278,847
A-Avg	\$41,141	\$227,469

B-Good	\$48,421	\$267,718
B-Avg	\$40,042	\$221,392
C-Good	\$35,887	\$198,421
C-Avg	\$27,698	\$153,143
C-Low	\$21,750	\$120,258
D-Good	\$33,237	\$183,765
D-Avg	\$25,716	\$142,182
D-Low	\$20,298	\$112,227

BASE CONSTRUCTION COST LIMITS

COMMON-USE AREA COST LIMITS

75 TO 120 BEDS

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

BASE CONSTRUCTION COST LIMITS

COMMON-USE AREA COST LIMITS

121 BEDS AND OVER

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

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

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

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

PERMANENT

(10) If allowable costs for construction or land are determined to be less than actual costs pursuant to subsection (3), (4), and (5) of this section, the department may increase the amount if the owner or contractor is able to show unusual or unique circumstances having substantially impacted the costs of construction or land. Actual costs shall be allowed to the extent they resulted from such circumstances up to a maximum of ten percent above levels determined under subsections (3), (4), and (5) of this section for construction or land. An adjustment under this subsection shall be granted only if requested by the contractor. The contractor shall submit documentation of the unusual circumstances and an analysis of their financial impact with the request.

NEW SECTION

WAC 388-96-753 Return on investment—Effect of funding granted under WAC 388-96-774, 388-96-776, and 388-96-777. (1) In establishing a nursing facility's return on investment prospective rate for July 1 or any subsequent revision to the prospective rate, in either the financing allowance or the variable return allowance, rate add-ons granted under the authority of WAC 388-96-774, 388-96-776, or 388-96-777 for any cost center shall be accounted for in accordance with this section. WAC 388-96-774, 388-96-776, and 388-96-777 rate add-ons accounted for in the prospective rate under this section shall remain subject to all the provisions of those sections including recoupment.

(2) For the July 1 prospective rate for the first fiscal year of a state biennium:

(a) Funding granted under the authority of WAC 388-96-774 and 388-96-777 during the preceding cost report year will be annualized and subsumed in the July 1 prospective rate and subject to adjustments for economic trends and conditions as authorized under WAC 388-96-719;

(b) WAC 388-96-774 and 388-96-777 funding granted during the six months prior to the beginning of the first fiscal year will continue as a rate add-on to the July 1 prospective rate and will not be subject to adjustments for economic trends and conditions as authorized under WAC 388-96-719.

(3) For the July 1 prospective rate for the second fiscal year of a state biennium, WAC 388-96-774 and 388-96-777 funding granted during the eighteen months preceding the second fiscal year will be rate add-ons to the July 1 prospective rate and not subject to adjustments for economic trends and conditions as authorized under WAC 388-96-719.

(4) For the July 1 rate for either the first fiscal year or the second fiscal year, funding granted under the authority of WAC 388-96-776 shall be annualized and subsumed in the July 1 prospective rate.

AMENDATORY SECTION (Amending Order 3634, filed 9/14/93, effective 10/15/93)

WAC 388-96-754 A contractor's return on investment. (1) The department shall establish for each Medicaid nursing facility a return on investment (ROI) rate composed of a financing allowance and a variable return allowance. The department shall determine a facility's ((return on investment -))ROI((?)) rate ((shall be determined)) annually in accordance with this section, to be effective July 1,

regardless of whether the rate is for the first or second fiscal year of ((the)) a state biennium. ((No nursing facility's ROI rate, in either the financing allowance or the variable return allowance, shall be established July 1 or revised subsequently to reflect rate adjustments granted in any cost center to current fund costs under the authority of WAC 388-96-774 and commencing after the prior cost report period, except for adjustments to fund capitalized additions or replacements.))

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

(a) Multiplying the net invested funds of each facility by ten percent and dividing by the contractor's total patient days ((effective for July 1, 1991, and all following rate settings. In computing the allowance for the working capital portion of net invested funds, the department shall include in a contractor's costs from the prior report year used to establish the contractor's component rates in nursing services, food, administrative, operational, and property, all adjustments for economic trends and conditions granted under authority of WAC 388-96-719 and all costs current funded under authority of WAC 388-96-774 and commencing during such prior report year. Annual patient days taken from the contractor's cost report for the most recent twelve month cost report period will be used. If the cost report covers less than twelve months, the department will estimate annual patient days and working capital costs for a full year based upon data in the cost report.)), to which the provisions of WAC 388-96-719 shall apply, and corresponding to the following:

(i) If the cost report covers twelve months, annual patient days from the contractor's most recent twelve month cost report period; or

(ii) If the cost report covers less than twelve months, annualized patient days and working capital costs based upon data in the cost report; or

(iii) If a capitalized addition or replacement results in an increased licensed bed capacity during the calendar year following the capitalized addition or replacement, the total patient days from the cost report immediately prior to the capitalized addition or replacement that were used in computing the financing and variable return allowances will be adjusted to the product of the occupancy level derived from the cost report used to compute the financing and variable return allowances at the time of the increased licensed bed capacity multiplied by the number of calendar days in the calendar year following the increased licensed bed capacity multiplied by the number of licensed beds on the new license; or

(iv) If a capitalized addition or retirement of an asset results in a different licensed bed capacity ((during the ensuing period, the department shall adjust the prior period total patient days used in computing the financing and variable return allowances to anticipated patient day level)) WAC 388-96-709 will apply; ((and))

(b) For the first fiscal year of a state biennium, the working capital portion of net invested funds shall be five percent of the sum of a contractor's costs from the cost report year used to establish the contractor's prospective component rates in nursing services, food, administrative, and operational that have been adjusted for economic trends and conditions under authority of WAC 388-96-719 and property. For the second fiscal year of a state biennium, the

working capital portion of net invested funds shall be five percent of the sum of the July 1 prospective component rates for the first fiscal year in nursing services, food, administrative, and operational multiplied by the patient days as defined in subsection (2)(a)(i), (ii), (iii), or (iv) of this section from the calendar year immediately prior to the second fiscal year of a state biennium adjusted for economic trends and conditions granted under authority of WAC 388-96-719 plus the desk reviewed property costs from the cost report of the prior calendar year;

(c) For either the first or second year of a state biennium, in computing the portion of net invested funds representing the net book value of tangible fixed assets, the same assets, depreciation bases, lives, and methods referred to in this chapter, including owned and leased assets, shall be used, except the capitalized cost of land upon which a facility is located and other such contiguous land which is reasonable and necessary for use in the regular course of providing patient care shall also be included. As such, subject to provisions contained in this chapter, capitalized cost of leased land, regardless of the type of lease, shall be the lessor's historical capitalized cost. Subject to provisions contained in this chapter, for land purchases before July 18, 1984 (the enactment date of the Deficit Reduction Act of 1984 (DEFRA)), capitalized cost of land shall be the buyer's capitalized cost. For all partial or whole rate periods after July 17, 1984, if the land is purchased on or after July 18, 1984, capitalized cost of land shall be that of the owner of record on July 17, 1984, or buyer's capitalized cost, whichever is lower. In the case of leased facilities where the net invested funds are unknown or the contractor is unable or unwilling to provide necessary information to determine net invested funds, the department may determine an amount to be used for net invested funds based upon an appraisal conducted by the department of general administration per this chapter(~~(-e))~~); and

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

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

(a) Once every two years at the start of each biennium, beginning with July 1, 1993 rate setting, the department shall, without utilizing the MSA and Non-MSA peer groups used to calculate other Medicaid component rates, rank all facilities in numerical order from highest to lowest based upon the combined average per diem allowable costs for the nursing services, food, administrative, and operational cost centers taken from the prior cost report period. The department shall use adjusted costs taken from cost reports having at least six months of data, shall not include adjustments for economic trends and conditions granted under authority of WAC 388-96-719, and shall include costs current-funded under authority of WAC 388-96-774 and WAC 388-96-777 and commencing in the prior cost report year. In the case of a new contractor, nursing services, food, administrative, and operational cost levels actually used to set the initial rate shall be used for the purpose of ranking the new contractor.

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

(c) The percentages so determined and assigned to each facility for July 1 rate setting for the first fiscal year of each state biennium, shall continue to be assigned without modification for July 1 rate setting for the second fiscal year of each biennium. Neither the break points separating the four groups nor facility ranking shall be adjusted to reflect future rate (~~(adjustments)~~) add-ons granted to contractors for any purpose under WAC 388-96-774(~~(-or granted for any other reason in the course of the biennium))~~) and WAC 388-96-777.

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

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

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

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

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

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

(6) The information from the two prior reporting periods used to set the two prospective return on investment rates in effect during the settlement year is subject to field audit. If the financing allowances which can be documented and calculated at audit of the prior periods are different than the prospective financing allowances previously determined by desk-reviewed, reported information, and other relevant information, the prospective financing allowances shall be adjusted to the audited level at final settlement of the year the rates were in effect, except the adjustments shall reflect a minimum bed occupancy level of eighty-five percent. Any adjustments to the financing allowances pursuant to this subsection shall be for settlement purposes only. However, the variable return allowances shall be the prospective allowances determined by desk-reviewed, reported information, and other relevant information and shall not be adjusted to reflect prior-period audit findings.

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

WAC 388-96-763 Rates for recipients requiring exceptionally heavy care. (1) A nursing facility contractor certified to provide nursing services, a discharging hospital, a recipient of Medicaid benefits or her/his authorized representative may apply for an individual prospective reimbursement rate for a Medicaid recipient whose special nursing and direct care-related service needs are such that the hours of nursing services needed are at least twice the per patient day average of nursing services hours provided in the nursing facility to which the recipient is admitted as determined by the facility's ~~((most recent reviewed))~~ Medicaid cost report for the calendar year immediately prior to the first fiscal year of the current state biennium.

(2) When application for an exceptional care rate is made before determining where the recipient will be placed, pre-admission qualification may be granted when the recipient's special nursing and direct care needs require hours of nursing services at least twice the statewide per patient day average ~~((determined by the most recent reviewed))~~ derived from Medicaid cost reports for the calendar year immediately prior to the first fiscal year of the current state biennium. For reviews to determine continued qualification only for such recipients, conducted during the ~~((first year after placement))~~ specified period of time determined under subsection (4) of this section, the department will continue to utilize the statewide average available to the department, assuming the care plan is unchanged. For subsequent reviews to determine continued qualification, the contractor's average, set forth under subsection (1) of this section, shall be substituted for the statewide average.

(3) The contractor or other applicant shall apply for exceptional care rate qualification for an exceptionally heavy care recipient in accordance with department instructions. The facility shall bill the department at the authorized exceptional care rate within three hundred sixty-five days from the exceptional care rate's effective date. Bills for services submitted after three hundred sixty-five days shall be denied as untimely.

(4) When the department grants an individual rate for an exceptionally heavy care recipient, it shall be for a specified period of time, which the department shall determine, subject to extension, revision, or termination depending on the recipient's care requirements at the end of such period. If within thirty days after a resident's admission to a nursing facility the application for such resident for an exceptional care rate is submitted to the department and includes the facility plan of care documenting the need for and delivery of the resident's nursing and direct care hours, the rate, if approved, shall be effective as of the date of admission. Applications submitted more than thirty days after admission to the facility, if approved, shall be effective as of the date of application.

(5) Extensions of exceptional care rates will not be approved without an updated care plan and resident medical status information submitted in accordance with departmental instruction prior to the scheduled date of the rate's termination. Failure to comply will result in automatic termination as of the scheduled date and reinstatement of an exceptional care rate, if desired, will require re-application and approval. Discharge or transfer of the recipient, permanently or temporarily, shall terminate an exceptional care rate which shall be nontransferable to a different facility. Qualification upon re-admission shall require re-application. A contractor may not transfer or discharge a ~~((Medicaid))~~ Medicaid recipient based upon the status of an exceptional care rate or application for such a rate.

(6) Regardless of whether statewide average nursing hours derived from the Medicaid cost reports for the calendar year immediately prior to the first fiscal year of the current state biennium or facility average nursing hours reported ~~((for))~~ on the ((prior period)) Medicaid cost reports for the calendar year immediately prior to the first fiscal year of the current state biennium are used for qualification, the exceptional care rate for a recipient shall be calculated by:

(a) Deriving a ratio equivalent to actual or projected nursing hours per patient day needed by the recipient in excess of the facility-specific reimbursed average nursing hours per patient day divided by the facility-specific ~~((prior period))~~ reported average nursing hours per patient day derived from the Medicaid cost reports for the calendar year immediately prior to the first fiscal year of the current state biennium;

(b) Multiplying the ratio by the facility-specific nursing services rate in effect at the time of the initial request or in the case of continuation or revision, the facility's nursing services rate in effect at the time of the approval of the continuation or revision; and

(c) Adding the result of subsection (6)(b) of this section to the total facility-specific reimbursement rate ~~((PROVIDED THAT:));~~ provided, that in no circumstance shall an exceptional care rate exceed one hundred sixty percent of the

facility's Medicare reimbursement rate in place at the time the exceptional care rate takes effect.

~~(7) ((Factors used in the calculation process set forth under subsection (6) of this section shall be the most current reviewed and available factors from department records at the time the department performs the calculation.~~

~~(8)))~~ A pre-admission exceptional care rate shall be effective for thirty days. The contractor shall notify the department, in writing, as soon as the recipient is admitted to the contractor's facility. If resident placement in a Medicaid nursing facility has not occurred within thirty days after the department receives the exceptional care application ~~((is received by the department))~~ the contractor shall submit, an updated plan of care ~~((must be submitted))~~ in order to reinstate exceptional care qualification.

~~((9)))~~ (8) Unless the department establishes otherwise, extensions require an updated plan of care to be completed and submitted every ninety days for each exceptional care recipient, including documentation supporting the need for services identified in the plan of care. The department shall base a decision to continue, revise, or terminate an exceptional care rate ~~((shall be based))~~ on review of the updated plan of care and supporting documentation, a current care need assessment, and other information available to the department.

In order to extend an exceptional care rate, the review must verify continued need for and delivery of nursing, direct and ancillary care services funded by the rate.

~~((10)))~~ (9) An exceptional care rate shall not be revised during the period the exceptional care rate is in effect because the facility-specific nursing services or total rate is revised or re-set; however, when an exceptional care rate is continued or revised as authorized in this section, the facility rate in place at the time of continuation or revision shall be used in the calculation process. An exceptional care rate shall be revised during the period the rate is in effect only when:

(a) An updated plan of care indicates a significant change in care needs; or

(b) Funded services are not fully delivered.

~~((11)))~~ (10) No retroactive revision shall be made to an exceptional care rate, provided that:

(a) When application is made within thirty days after the recipient is admitted to the contractor's facility, an approved rate shall be effective the date of admission;

(b) When an exceptional care rate is revised due to a significant change, the revised rate will be effective on the date the department receives the updated plan of care and supporting documentation; and

(c) When care services funded by an exceptional care rate are not fully delivered, the exceptional care rate shall be reduced retroactively as of its effective date to the regular facility Medicaid rate and payment at the exceptional care rate shall cease immediately.

~~((12)))~~ (11) Hours of nursing and direct care used to qualify a recipient and to calculate an exceptional rate must be verified by ~~((the department's clinical assessor))~~ a home and community services division, aging and adult services, regional community nurse consultant.

~~((13)))~~ (12) The department shall notify the contractor, in writing, of the disposition of its application as soon as possible and in no case longer than thirty days following

receipt of a properly completed application and supporting documentation.

AMENDATORY SECTION (Amending Order 3615, filed 8/11/93, effective 9/11/93)

WAC 388-96-774 Add-ons to the prospective rate ~~((revisions))-staffing.~~ (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st. ~~((The department shall determine all prospective reimbursement rates for 1984 and thereafter using the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply.))~~

(a) The department may grant ~~((revisions))~~ a rate add-on to a nursing service (NS) or operational (OP) prospective reimbursement rate for:

(i) ~~((Inflation only as authorized under WAC 388-96-719(3); and-~~

~~(ii) Other revisions for cost increases only as authorized in this section))~~ Variations in the distribution of patient classifications for the total resident population or changes in patient characteristics for the total resident population from:

(A) The Medicaid cost report for the calendar year immediately prior to the first fiscal year of a state biennium;
or

(B) Those used to set the rate for a new contractor; or

(ii) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.

(b) The department shall not grant and the contractor shall not use rate ~~((adjustments))~~ add-ons for:

(i) ~~((Wage))~~ Compensation increases for existing, newly hired or promoted staff ~~((except as authorized in WAC 388-96-756)); (and)~~

(ii) The use of temporary employment services providing direct patient care;

(iii) Any purpose if the nursing facility has a pending bankruptcy; unless, it is under chapter 11 and the nursing facility can provide a written evaluation from the trustee in bankruptcy stating the reorganization will be approved and implemented;

(iv) Correction of survey citations; or

(v) Staffing increases to resolve complaints.

(c) The department shall not grant a rate ~~((adjustment))~~ add-on to a cost center if that cost center is at or above the median cost limit for the facility's peer group ~~((plus the applicable percentage.))~~ reduced or increased under WAC 388-96-719.

~~((The department shall adjust rates for any capitalized additions or replacements made as a condition for licensure or certification.~~

~~((3))~~ The department may adjust rates for any of the following:

~~((a))~~ Variations in the distribution of patient classifications or changes in patient characteristics from:

(i) The prior reporting year; or

(ii) Those used to set the rate for a new contractor; or

(iii) Corresponding to the nursing staff funded for a new contractor.

~~(b) Program changes required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration; and~~

~~(c) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.~~

~~(4)) Per state fiscal year, the contractor may submit no more than two requests under this section. If a request has been previously submitted and denied because it was not complete, then it will not count as a request for this subsection; provided, the resubmitted request is complete and exactly the same as the previous request, e.g., type of request, positions and full-time equivalencies.~~

~~(3) Contractors requesting ~~((an adjustment))~~ a rate add-on shall submit a written request to the ~~((department))~~ office of rates management, aging and adult services administration, separate from all other requests and ~~((inquires [inquiries]))~~ inquiries of the department, ~~((e.g. [e.g.] e.g.,~~ WAC 388-96-904 (1) and (5). The written request shall only be submitted after the hire date of the new staff and shall include the following:~~

(a) A financial analysis showing:

(i) The increased cost; and

(ii) An estimate of the rate increase, computed according to allowable methods, necessary to fund the cost.

(b) A written justification for granting the rate increase; ~~((and))~~

(c) A certification and supporting documentation showing the changes in staffing have commenced ~~((, or other commenced or completed improvements));~~

~~(d) Two proofs of hire, e.g., payroll document, W-4, and appointment letter;~~

~~(e) A written narrative describing the contractor's efforts to provide alternative solutions prior to submitting a request under this section; and~~

~~(f) A written plan specifying:~~

~~(i) Additional staff to be added;~~

~~(ii) Changes in all patient characteristics requiring the additional staff; and~~

~~(iii) The predicted improvements in patient care services that will result.~~

~~((5)) (4) Contractors receiving ~~((prospective))~~ rate ~~((increases))~~ add-ons per this section shall submit quarterly reports. The quarterly reports shall cover the first day the rate ~~((increase))~~ add-on is effective and show how the additional rate funds and hours were utilized. If the ~~((funds and/or hours were not utilized for the changes and/or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.~~~~

~~(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying:~~

~~(a) Additional staff to be added;~~

~~(b) Changes in all patient characteristics requiring the additional staff; and~~

~~(c) The predicted improvements in patient care services which will result. The department shall respond to such requests within sixty days following the receipt of a properly completed request.~~

~~(7)) contractor does not use the funds for the purpose for the purpose for which they were granted.~~

~~(5) In reviewing a request made under subsection (3) of this section, the department shall consider but is not limited to one or more of the following:~~

~~(a) Whether additional staff requested by a contractor is necessary to meet patient care needs;~~

~~(b) Comparisons of staffing patterns of nursing facilities from either the latest statewide metropolitan statistical area (MSA) peer group or non-MSA peer group to which the nursing facility belongs and calculated on a per patient day basis. The department shall use the latest MSA and non-MSA designations received from the office of management and budget or the appropriate federal agency;~~

~~(c) The physical layout of the facility;~~

~~(d) Nursing service planning and management for maximum efficiency;~~

~~(e) Historic trends in underspending of a facility's nursing services and operational component ~~((rate))~~ rates;~~

~~(f) Numbers, positions, and scheduling of existing staff;~~

~~(g) Increases in acuity (debility) levels of ~~((contractors'))~~ all residents in the facility;~~

~~(h) Survey, ~~((inspection of care, and department consultation results))~~ complaint resolution reports, and quality assurance data; and~~

~~(i) The facility's ability to fund its staffing request through the facility's existing total Medicaid reimbursement rate.~~

~~((8) If a request made under subsection (3) of this section is approved by the department, the cost of funding the additional staff may be reduced for rate revision purposes by amounts shifted out of nursing services in 1986 or 1987, as reflected in the preliminary or final settlement reports for 1986 and 1987.~~

~~(9)) (6) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:~~

~~(a) Compensation of the receiver;~~

~~(b) Reasonable expenses of receivership and transition of control; and~~

~~(c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.~~

~~((10)) (7) The department shall not grant a rate ~~((adjustment))~~ add-on effective earlier than sixty days prior to receipt of the initial written request ~~((for such adjustment accompanied by all related documentation and information required by this section))~~ by the office of rates management subject to the requirements of subsection (3) of this section, the department shall grant a rate add-on for an approved request as follows:~~

~~(a) If the request is received between the first day and fifteenth day of the month, then the rate will be effective on the first day of that month; or~~

~~(b) If the request is received between the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.~~

~~(8) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor must submit the requested information within fifteen days from the date the contractor receives the notice to provide the information. If~~

the contractor fails to complete the rate add-on request by providing all the requested documentation and information within the fifteen days from the date of receipt of notification, the department will deny the request for failure to complete.

(9) If, after the denial for failure to complete the request, the contractor submits a written request for the same need, the date of receipt for the purposes of applying subsection (7) will depend upon whether the subsequent request for the same need is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same need is:

(a) Complete, then the date of the initial incomplete request may be used when applying subsection (7) of this section; or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (7) of this section.

(10) The department shall respond, in writing, not later than sixty days after receipt of a complete request.

NEW SECTION

WAC 388-96-776 Add-ons to the prospective rate—Capital improvements. (1) The department shall grant an add-on to a prospective rate for any capitalized additions or replacements made as a condition for licensure or certification; *provided*, the net rate effect is ten cents per patient day or greater.

(2) The department shall grant an add-on to a prospective rate for capitalized improvements done under RCW 74.46.465; *provided*, the legislature specifically appropriates funds for capital improvements for the biennium in which the request is made and the net rate effect is ten cents per patient day or greater. Physical plant capital improvements include, but are not limited to, capitalized additions, replacements or renovations made as a result of an approved certificate of need or capitalized additions or renovations for the removal of physical plant waivers.

(3) When physical plant improvements made under subsection (1) or (2) are completed in phases, the department shall not grant a rate add-on for any addition, replacement or improvement until each phase is completed and fully utilized for which it was intended. The department shall limit rate add-on to only the actual cost of the depreciable tangible assets meeting the criteria of WAC 388-96-557 and as applicable to that specific completed and fully utilized phase.

(4) When the construction class of any portion of a newly constructed building will improve as the result of any addition, replacement or improvement occurring in a later, but not yet completed and fully utilized phase of the project, the most appropriate construction class, as applicable to that completed and fully utilized phase, will be assigned for purposes of calculating the rate add-on. The department shall not revise the rate add-on retroactively after completion of the portion of the project that provides the improved construction class. Rather, the department shall calculate a new rate add-on when the improved construction class phase is completed and fully utilized and the rate add-on will be effective in accordance with subsection (8) of this section using the date the class was improved.

(5) The department shall not add on construction fees as defined in WAC 388-96-745(6) and other capitalized allowable fees and costs as related to the completion of all phases of the project to the rate until all phases of the entire project are completed and fully utilized for the purpose it was made. At that time, the department shall add on these fees and costs to the rate, effective no earlier than the earliest date a rate add-on was established specifically for any phase of this project. If the fees and costs are incurred in a later phase of the project, the add-on to the rate will be effective on the same date as the rate add-on for the actual cost of the tangible assets for that phase.

(6) The contractor requesting an adjustment under subsection (1) or (2) shall submit a written request to the office of rates management separate from all other requests and inquiries of the department, e.g., WAC 388-96-904 (1) and (5). A complete written request shall include the following:

(a) A copy of documentation (i.e., survey level "A" deficiency) requiring completion of the addition or replacements to maintain licensure or certification for adjustments requested under subsection (1) of this section;

(b) A copy of the new bed license, whether the number of licensed beds increases or decreases, if applicable;

(c) All documentation, e.g., copies of paid invoices showing actual final cost of assets and/or service, e.g., labor purchased as part of the capitalized addition or replacements;

(d) Certification showing the completion date of the capitalized additions or replacements and the date the assets were placed in service per WAC 388-96-559(2);

(e) A properly completed depreciation schedule for the capitalized additions or replacement as provided in this chapter;

(f) A written justification for granting the rate increase; and

(g) For capitalized additions or replacements requiring certificate of need approval, a copy of the approval and description of the project.

(7) The department's criteria used to evaluate the request may include, but is not limited to:

(a) The remaining functional life of the facility and the length of time since the facility's last significant improvement;

(b) The amount and scope of the renovation or remodel to the facility and whether the facility will be better able to serve the needs of its residents;

(c) Whether the improvement improves the quality of living conditions of the residents;

(d) Whether the improvement might eliminate life safety, building code, or construction standard waivers;

(e) Prior survey results; and

(f) A review of the copy of the approval and description of the project.

(8) The department shall not grant a rate add-on effective earlier than sixty days prior to the receipt of the initial written request by the office of rates management and not earlier than the date the physical plant improvements are completed and fully utilized. The department shall grant a rate add-on for an approved request as follows:

(a) If the physical plant improvements are completed and fully utilized during the period from the first day to the

fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the physical plant improvements are completed and fully utilized during the period from the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(9) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor shall submit the requested information within fifteen days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the add-on request by providing all the requested documentation and information within the fifteen days from the date of receipt of notification, the department shall deny the request for failure to complete.

(10) If, after the denial for failure to complete, the contractor submits a written request for the same project, the date of receipt for the purpose of applying subsection (8) will depend upon whether the subsequent request for the same project is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same project is:

(a) Complete, then the date of the first request may be used when applying subsection (8); or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (8) even though the physical plant improvements may be completed and fully utilized prior to that date.

(11) The department shall respond, in writing, not later than sixty days after receipt of a complete request.

(12) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

(13) When any physical plant improvements made under subsection (1) or (2) results in a change in licensed beds, any rate add-on granted will be subject to the provisions regarding the number of licensed beds, patient days, occupancy, etc., included in this chapter.

NEW SECTION

WAC 388-96-777 Add-ons to the prospective rate—Initiated by the department. (1) The department shall initiate all rate add-ons granted under this section. Contractors may not request and be approved a rate add-on under this section.

(2) Rate add-ons the department grants under the authority of this section shall be for costs to implement:

(a) Program changes that the director of nursing home services, aging and adult services administration determines a rate add-on is necessary to accomplish the purpose of the change and announces same in a written directive to the chief of the office of rates management; or

(b) Changes in either the state or federal statutes or regulations or directives that the director of management services, aging and adult services administration determines requires a rate add-on to implement and directs in writing the chief of the office of rates management to implement.

(3) Changes made under this section are subject to review under WAC 388-96-901 and 388-96-904; *provided*,

the issue is not whether a rate add-on should have been granted.

(4) If the contractor does not use the funds for the purpose for which they were granted, the department shall immediately recoup the misspent or unused funds.

AMENDATORY SECTION (Amending Order 3185, filed 5/31/91, effective 7/1/91)

WAC 388-96-904 Administrative review—Adjudicative proceeding. (1) Within twenty-eight days after a contractor is notified of an action or determination it wishes to challenge, the contractor shall request, in writing, the appropriate director or the director's designee review such determination. The contractor shall send the request to the ~~((office of contracts management if the challenge pertains to audit findings (adjusting journal entries or AJEs) or other audit matters. For other matters (such as rates, desk reviews, and settlements), the contractor shall send the request to the manager, residential rates program))~~ office of rates management, aging and adult services administration. If the contractor uses a facsimile to establish the request for review, the facsimile must conform to subsection (1)(a), (b) and (c) and the original including the requirements of subsection (d) of this section must be received by the office of rates management within seven days after the transmission of the facsimile. The contractor or the licensed administrator of the facility shall:

(a) Sign the request;

(b) Identify the challenged determination and the date thereof;

(c) State as specifically as practicable the issues and regulations involved and the grounds for contending the determination is erroneous; and

(d) Attach to the request copies of any documentation the contractor intends to rely on to support the contractor's position.

(2) After receiving a timely request meeting the criteria of ~~((this section))~~ subsection (1) of this section, the department shall contact the contractor to schedule a conference for the earliest mutually convenient time. If the department and contractor cannot agree to a mutually convenient time, then department shall schedule the conference for no earlier than fourteen days after the contractor was ((notified of)) contacted by the department to schedule the conference and no later than ninety days after a properly completed request is received, unless both parties agree, in writing, to a specific later date. The department may conduct the conference by telephone unless either the department or the contractor requests, in writing, the conference be held in person.

(3) The contractor and appropriate representatives of the department shall participate in the conference. In addition, representatives selected by the contractor may participate. The contractor shall bring to the conference ~~((or))~~ and provide to the department fourteen days in advance of the conference:

(a) Any documentation requested by the department which the contractor is required to maintain for audit purposes under WAC 388-96-113; and

(b) Any documentation the contractor intends to rely on to support the contractor's contentions. The parties shall clarify and attempt to resolve the issues at the conference.

If additional documentation is needed to resolve the issues, the parties shall schedule a second session of the conference for not later than thirty days after the initial session unless both parties agree, in writing, to a specific later date.

(4) Regardless of whether agreement has been reached at the conference, the director of (~~residential rates and licensure services~~) management services division, aging and adult services or designee (~~or the director of the office of nursing home audit or designee~~) shall furnish the contractor a written decision within sixty days after the conclusion of the last conference held or the receipt of all required documentation on the action or determination challenged by the contractor.

(5) A contractor has the right to an adjudicative proceeding to contest only issues raised in the administrative review conference and addressed in the director's administrative review decision.

(a) A contractor contesting the director's decision shall within twenty-eight days of receipt of the decision:

(i) File a written application for an adjudicative proceeding with the office of appeals;

(ii) Sign the application or have the licensed administrator of the facility sign it;

(iii) State as specifically as practicable the issues and law involved;

(iv) State the grounds for contesting the director's decision; and

(v) Attach to the application a copy of the director's decision being contested and copies of any documentation the contractor intends to rely on to support its position.

(b) The proceeding shall be governed by the Administrative Procedure Act (chapter 34.05 RCW), this chapter, and chapter 388-08 WAC. If any provision in this chapter conflicts with chapter 388-08 WAC, the provision in this chapter governs.

(6) Subject to subsection (7) of this section adjudicative proceedings timely requested under subsection (5) of this section shall be dismissed unless within one calendar year after the department receives the application:

(a) All issues have been resolved by a written, signed settlement agreement between the contractor and the department; or

(b) The evidentiary record, including all briefing, has been closed.

(7) If a written settlement agreement resolving all the issues has not been signed by both the contractor and the department and if the evidentiary record, including all briefing, has not been closed upon the expiration of one year after the application was received by the department, the office of administrative hearings shall, within fourteen days after the expiration date:

(a) Issue a written order dismissing the adjudicative proceeding with prejudice to the contractor; or

(b) Issue a written order for a continuance for good cause described in the order for a period not to exceed ninety days.

Good cause as stated in the order must show the hearing was prevented from being held because of circumstances that were beyond the control of the contractor. Upon expiration of any extension period and without either a signed settlement agreement resolving all issues or a closed evidentiary record including all briefing, the office of administrative

hearings shall either dismiss with prejudice to the contractor or continue for good cause as provided in this subsection. Orders for dismissal or continuance shall be subject to a petition for review timely filed with the department's office of appeals if desired by either party.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-96-707 Program services not covered by the reimbursement rate.

WAC 388-96-721 Priorities in establishing rates and responding to appeals of desk-review adjustments.

WSR 94-14-001

PERMANENT RULES DEPARTMENT OF HEALTH

(State Board of Health)

[Filed June 22, 1994, 1:48 p.m.]

Date of Adoption: May 11, 1994.

Purpose: Revise current WAC chapter to incorporate new federal Safe Drinking Water Act requirements, make minor program changes and corrections and delete references to Group B systems.

Citation of Existing Rules Affected by this Order: Amending WAC 246-290-010, 246-290-020, 246-290-030, 246-290-040, 246-290-060, 246-290-100, 246-290-110, 246-290-130, 246-290-135, 246-290-140, 246-290-230, 246-290-300, 246-290-310, 246-290-320, 246-290-330, 246-290-410, 246-290-440, 246-290-480, 246-290-632, 246-290-654, 246-290-660, 246-290-662, 246-290-664, 246-290-666, 246-290-670, 246-290-686, 246-290-692, 246-290-694, and 246-290-696.

Statutory Authority for Adoption: RCW 43.20.050.

Pursuant to notice filed as WSR 94-08-075 on April 5, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 17, 1994

Sylvia I. Beck

Executive Director

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-010 Definitions. Abbreviations:

BAT - best available technology;

CFR - code of federal regulations;

CSE - comprehensive system evaluation;

GW - ground water under the direct influence of surface water;

HPC - heterotrophic plate count;

kPa - kilo pascal (SI units of pressure);

m - meter;

MCL - maximum contaminant level;

mg/L - milligrams per liter;

mL - milliliter;

mm - millimeter;

NTNC - nontransient noncommunity;

NTU - nephelometric turbidity unit;

pCi/L - picocuries per liter;

psi - pounds per square inch;

SAL - state advisory level;

SOC - synthetic organic chemical;

((THM)) TTHM - total trihalomethane;

TNC - transient **noncommunity**;

TNTC - too numerous to count;

ug/L - micrograms per liter;

umhos/cm - micromhos per centimeter;

VOC - volatile organic chemical; ((and))

WFI - water facilities inventory and report form; and

WHPA - wellhead protection area.

"Acute" means posing an immediate risk to human health.

"Authorized agent" means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

"Best available technology (BAT)" means the best technology, treatment techniques, or other means which EPA finds, after examination for efficacy under field conditions, are available (taking cost into consideration). For the purposes of setting MCLs for synthetic organic chemicals, any BAT ((must)) shall be at least as effective as granular activated carbon.

"Category red operating permit" means an operating permit identified as such pursuant to chapter 246-294 WAC. Placement in this category results in permit issuance with conditions and a determination that the system is inadequate.

"Coliform sample" means a sample of water collected from the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

"Composite sample" means a sample created in a certified laboratory by mixing equal parts of water from up to five different sources.

"Comprehensive monitoring plan" means a schedule which describes both the frequency and appropriate locations for sampling of drinking water contaminants as required by state and federal rules.

"Comprehensive system evaluation (CSE)" means a review, inspection, and assessment of a public water system, including but not limited to: Source; facilities; equipment; operation and administration; maintenance; records; planning documents and schedules; and monitoring, for the purpose of ensuring that safe and adequate drinking water is provided.

"Confirmation" means to demonstrate the results of a sample to be precise by analyzing a ((repeat)) sample from the same location. Confirmation occurs when analysis results fall within plus or minus thirty percent of the original sample.

"Confluent growth" means a continuous bacterial growth covering a portion or the entire filtration area of a membrane filter in which bacterial colonies are not discrete.

"Contaminant" means a substance present in drinking water which may adversely affect the health of the consumer or the aesthetic qualities of the water.

"Contingency plan" means that portion of the wellhead protection program section of the water system plan or small water system management program which addresses the replacement of the major well(s) or wellfield in the event of loss due to ground water contamination.

"Cross-connection" means a physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system, and capable of contaminating the public water system.

"Department" means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-290-030(1).

"Disinfection" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

"Distribution reservoir" means a water storage structure which is integrated with a water system's distribution network to provide for variable system demands including, but not limited to, daily equalizing storage, standby storage, or fire reserves, or to provide for disinfectant contact time.

"Distribution system" means that portion of a public water system which conveys water from the source and/or treatment facilities to consumers.

"Domestic or other nondistribution system plumbing problem," means contamination of a system having more than one service connection with the contamination limited to the specific service connection from which the sample was taken.

"Duplicate (verification) sample" means a second sample collected at the same time and location as the first sample and used for verification.

"Expanding public water system" means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or distribution facilities which will enable the system increasing in size its existing service area and/or its number of approved service connections. Exceptions:

A system which connects new approved individual retail or direct service connections onto an existing distribution system within an existing service area; or

A distribution system extension in an existing service area identified in a current and approved water system plan or project report.

"Fire flow" means the rate of water flow needed to fight fires under WAC 246-293-640 or adopted city, town, or county standards.

"First customer" means the first service connection, i.e., the point where water is first withdrawn for human consumption, excluding connections where water is delivered to another water system covered by these regulations.

"Grab sample" means a water quality sample collected at a specific instant in time and analyzed as an individual sample.

"Ground water under the direct influence of surface water (GWI)" means any water beneath the surface of the ground, which the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

"Guideline" means a department document assisting the purveyor in meeting a rule requirement.

"Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"Hydraulic analysis" means the study of the water system network evaluating water flows within the distribution system under worst case conditions such as, peak hourly design flow plus fire flow, when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

"Initial inventory" means an inventory which consists, at a minimum, of all potential sources of ground water contamination located within the one-year time of travel area of a WHPA and all high risk potential sources of ground water contamination located within the ten-year ground water time of travel area.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water the purveyor delivers to any public water system user, measured at the locations identified under WAC 246-290-300, Table 4.

"Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable, as outlined under WAC 246-290-310.

"Monitoring waiver" means an action taken by the department pursuant to WAC 246-290-300 (3)(g) or (7)(f) to allow a water system to reduce specific monitoring requirements based on a determination of low source vulnerability to contamination. Guidance on applying for monitoring waivers is found in the department guideline titled, *Source Vulnerability and Monitoring Waivers* which is available from the department.

"Nonacute" means posing a possible or less than immediate risk to human health.

"Nonresident" means a person without a permanent home or without a home served by the system, such as travelers, transients, employees, students, etc.

"Peak hourly design flow" means the maximum rate of water use, excluding fire flow, which can be expected to ever occur within a defined service area over a sixty minute time period.

"Population served" means the number of persons, resident and nonresident, having immediate access to drinking water from a public water system, whether or not such persons have actually consumed water from that system. The number of nonresidents shall be the average number of persons having immediate access to drinking water on days access was provided during that month. In the absence of specific population data, the number of residents shall be computed by multiplying the number of active services by two and one-half.

"Potable" means water suitable for drinking by the public.

"Primary standards" means standards based on chronic, nonacute, or acute human health effects.

"Protected ground water source" means a ground water source the purveyor shows to the department's satisfaction

as protected from potential sources of contamination on the basis of hydrogeologic data and/or satisfactory water quality history.

"Public water system" is defined and referenced under WAC 246-290-020.

"Purchased source" means water a purveyor purchases from a public water system not under the control of the purveyor for distribution to the purveyor's customers.

"Purveyor" means an agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or other entity owning or operating a public water system. Purveyor also means the authorized agents of such entities.

"Regularly" means four hours or more per day for four days or more per week.

"Repeat sample" means a sample collected to confirm the results of a previous analysis.

"Resident" means an individual living in a dwelling unit served by a public water system.

"Residual disinfectant concentration" means the concentration of disinfectant in mg/L in a representative sample of disinfected water.

"Same farm" means a parcel of land or series of parcels which are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A public water system.

"Seasonal source" means a public water system source used on a regular basis, but not in use more than three consecutive months within a twelve-month period.

"Secondary standards" means standards based on factors other than health effects.

"Service" means a connection to a public water system designed to ((serve)) provide potable water to a single family residence, ((dwelling unit,)) or other residential or nonresidential population. When the connection is to a system without clearly defined single family residences or with a nonresident population, the following formulas shall be used in determining equivalent ((use. When the connection is a)) number of services:

For group home or barracks-type accommodation, divide the average population served each day by two and one-half ((persons shall be equivalent to one service));

For NTNC systems, divide the average population served each day by two and one-half; and

For TNC systems, divide the average population served each day by twenty-five.

In no case shall the calculated number of services be less than one.

"Special purpose sample" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

"Standard methods" means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

"State advisory level (SAL)" means a department-established value for a ((chemical)) contaminant without an

existing state board of health MCL. The SAL represents a level which when exceeded, indicates the need for further assessment to determine if the chemical is an actual or potential threat to human health.

"State board of health" and "board" means the board created by RCW 43.20.030.

"Surface water" means a body of water open to the atmosphere and subject to surface runoff.

"Susceptibility assessment" means the Susceptibility Assessment Survey Form developed by the department to evaluate the hydrologic setting of the water source and assess its contribution to the sources' overall vulnerability to pollution from surface activities.

"Synthetic organic chemical (SOC)" means a manufactured carbon-based chemical.

"Time-of-travel" means the time required for ground water to move through the water bearing zone from a specific point to a well.

"Too numerous to count (TNTC)" means the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Trihalomethane (~~THM~~)" means one of a family of organic compounds, named as derivatives of methane, where three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure. Trihalomethanes may occur when chlorine, a halogen, is added to water containing organic material.

"Verification" means to demonstrate the results of a sample to be precise by analyzing a duplicate sample. Verification occurs when analysis results fall within plus or minus thirty percent of the original sample.

"Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with drinking water from a public water system, as determined by the appropriate local health agency or the department.

"Water facilities inventory form (WFI)" means the department form summarizing each public water system's characteristics.

"Watershed" means the region or area which:
Ultimately drains into a surface water source diverted for drinking water supply; and

Affects the physical, chemical, microbiological, and radiological quality of the source.

"Well field" means a group of wells one purveyor owns or controls which:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

"Wellhead protection area (WHPA)" means the portion of a well's, wellfield's or spring's zone of contribution defined as such using WHPA criteria established by the department.

"Zone of contribution" means the area surrounding a pumping well or spring that encompasses all areas or features that supply ground water recharge to the well or spring.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-020 Applicability. (1) Public water system shall mean any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any:

(a) Collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Collection or pretreatment storage facilities not under control of the purveyor primarily used in connection with such system.

(2) The rules of this chapter shall apply to all **Group A** public water systems except those systems meeting all of the following conditions:

(a) Consists only of distribution and/or storage facilities and does not have any source or treatment facilities;

(b) Obtains all water from, but is not owned by, a public water system where the rules of this chapter apply;

(c) Does not sell water directly to any person; and

(d) ~~(Has water distribution facilities that are subject to inspection or regulation by a state or local agency other than the department; and~~

(~~e~~) Is not a passenger-conveying carrier in interstate commerce.

(3) ~~(Public water)~~ **Group A** public water systems meeting all of the provisions under subsection (2) of this section may be required by the department to comply with such provisions of this chapter as are necessary to resolve a public health concern if the department determines a public health threat exists or is suspected.

(4) **Group A** system(s) shall be ~~(categorized)~~ defined as ~~(follows:~~

~~(a) A Group A)~~ a public water system ~~((shall be a system)):~~

~~((+))~~ (a) With fifteen or more service connections, regardless of the number of people; or

~~((+))~~ (b) Serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

(5) **Group A** water systems are further defined as **community** and **noncommunity** water systems.

~~((b))~~ (a) **Community** ~~((residential))~~ water system means any **Group A** ~~((public))~~ water system:

(i) With fifteen or more service connections used by residents for one hundred eighty or more days within a calendar year, regardless of the number of people; or

(ii) Regularly serving twenty-five or more residents for one hundred eighty or more days within the calendar year, regardless of the number of service connections.

Examples of a **community** ~~((residential))~~ water system might include a municipality, subdivision, mobile home park, apartment complex, college with dormitories, nursing home, or prison.

~~((e))~~ (b) **Noncommunity** water system means a **Group A** ~~((public))~~ water system which is not a **community** ~~((residential))~~ water system. **Noncommunity** water systems are further defined as:

(i) **Nontransient (NTNC) water system** (~~((means a nonecommunity water system))~~) which regularly ((~~servicing~~) serves twenty-five or more of the same nonresidents for one hundred eighty or more days within a calendar year.

Examples of a NTNC water system might include a school, day care center, or a business, factory, motel, or restaurant with twenty-five or more employees on-site.

(ii) **Transient (TNC) water system** (~~((means a nonecommunity water system))~~) which:

(A) (~~((Having))~~) Has fifteen or more service connections used less than one hundred eighty days within a calendar year; or

(B) (~~((Serving))~~) Serves twenty-five or more different nonresidents for sixty or more days within a calendar year; or

(C) (~~((Serving))~~) Serves twenty-five or more of the same nonresidents for sixty or more days, but less than one hundred eighty days within a calendar year; or

(D) (~~((Serving))~~) Serves twenty-five or more residents for sixty or more days, but less than one hundred eighty days within a calendar year.

Examples of a TNC water system might include a restaurant, tavern, motel, campground, state or county park, an RV park, vacation cottages, highway rest area, or church.

~~((4))~~ (c) A **Group B** water system (~~((means))~~) is a public water system which ((is)) does not meet the definition of a Group A water system. ((This would include a water system with less than fifteen service connections and serving:

(i) ~~An average of less than twenty-five people for sixty or more days within a calendar year; or~~

(ii) ~~Any number of people for less than sixty days within a calendar year.)~~ (See Table 1 and chapter 246-291 WAC for further explanation of a **Group B** water system.)

~~((4))~~ (6) A (~~((public water))~~) **Group A** system meeting more than one of the categories described in this section shall be classified by the department in the following order:

(a) **Community** water system;

(b) **NTNC** water system; and

(c) **TNC** water system(~~((and~~

~~((Group B water system))~~).

~~((5))~~ (7) The rules of this chapter to apply to the source or supply of water used by bottled water or ice plants to produce bottled water or ice are as follows:

(a) If the bottled water or ice plant is a **Group A** water system and the plant uses the system's source for the water that is bottled or made into ice, the source and supply used for the bottled water and ice shall meet the applicable **Group A** requirements;

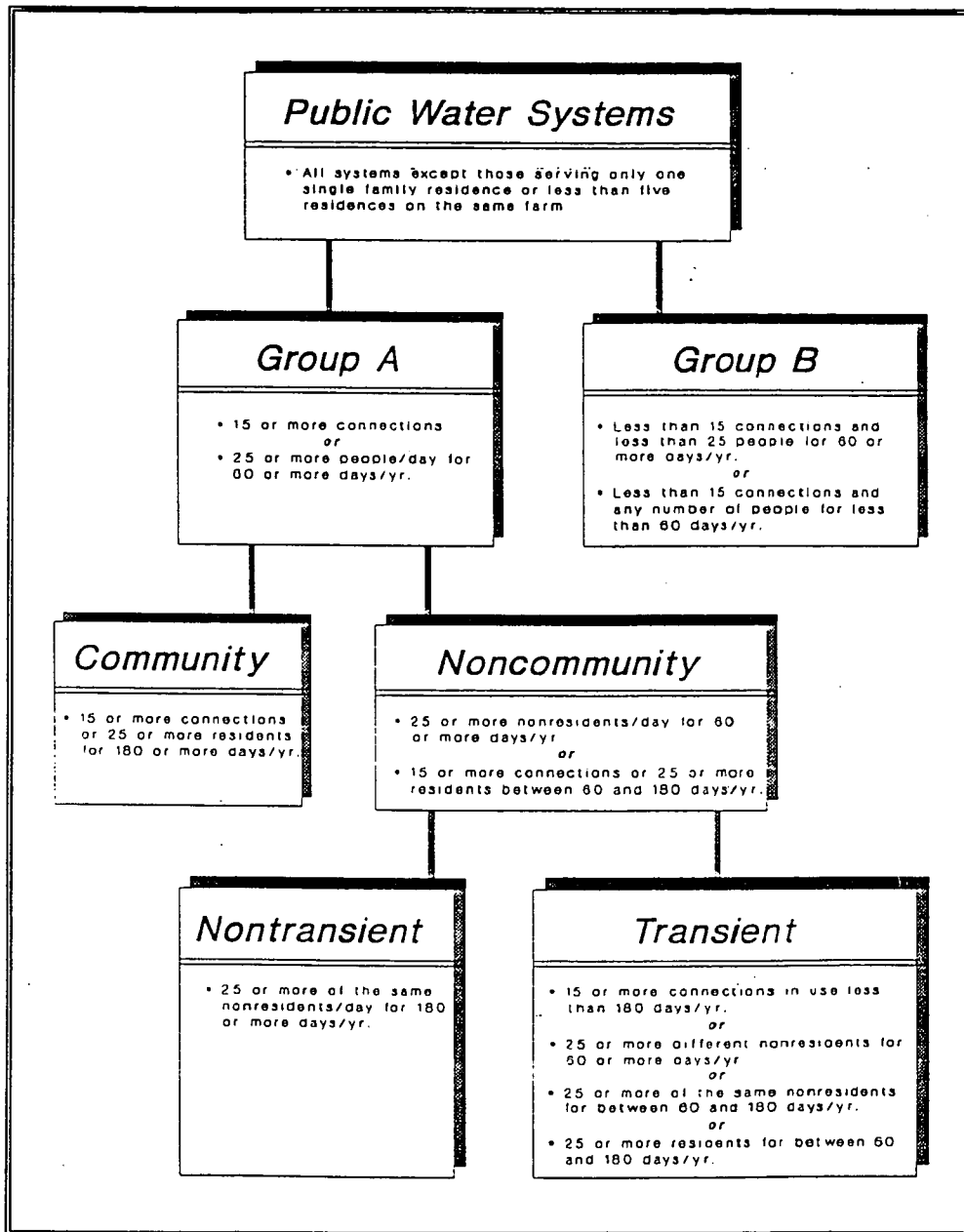
(b) If the bottled water or ice plant uses its own source for the water that is bottled or made into ice, and the plant is not a **Group A** system, the owner or operator shall obtain source approval from the department, and the source water shall meet the (~~((minimum))~~) ongoing source water quality monitoring requirements for a **Group A community** system;

(c) If the bottled water or ice plant purchases the water for bottling or making ice from another source or supply, the water shall meet the minimum requirements for a **Group A** system, and the owner or operator of the plant shall ensure that the water meets such requirements;

(d) The source or supply for the water that is bottled or made into ice shall be protected from contamination prior to the bottling or ice making process; and

(e) In addition to the requirements imposed under this subsection, the processing of bottled water shall be subject to regulation by the state department of agriculture and the United States Food and Drug Administration.

Table 1



PERMANENT

NEW SECTION

WAC 246-290-025 Adoption by reference. The following sections and subsections of Title 40 Code of Federal Regulations (CFR) Part 141 National Primary Drinking Water Regulations revised as of July 1, 1993, and including all amendments and modifications thereto effective as of the date of adoption of this chapter are adopted by reference:

141.2 Definitions. Only those definitions listed as follows:

Action level;

- Corrosion inhibitor;
- Effective corrosion inhibitor residual;
- First draw sample;
- Large water system;
- Lead service line;
- Medium-size water system;
- Optimal corrosion control treatment;
- Service line sample;
- Single family structure; and
- Small water system.

141.12 Maximum contaminant levels for organic chemicals.

- 141.23(a) - 141.23(j), Inorganic chemical sampling.
 141.23(m) - 141.23(o)
 141.24(a) - 141.24(d), Organic chemicals other than total trihalomethanes.
 141.24 (f)(1) - 141.24 (f)(15),
 141.24 (f)(18), 141.24 (f)(19),
 141.24 (f)(21),
 141.24 (g)(1) - 141.24 (g)(9),
 141.24 (g)(12) - 141.24 (g)(14),
 141.24 (h)(1) - 141.24 (h)(11),
 141.24 (h)(14) - 141.24 (h)(17)
 141.40(a) - 141.40(e), Special monitoring for inorganic and organic chemicals.
 141.40(g), 141.40(i) - 141.40(n)
 141.61 Maximum contaminant levels for organic contaminants.
 141.62 Maximum contaminant levels for inorganic chemical and physical contaminants.
 141.80 General requirements.
 141.81 Applicability of corrosion control treatment steps to small, medium-size and large water systems.
 141.82(a) - 141.82(h) Description of corrosion control treatment requirements.
 141.83 Source water treatment requirements.
 141.84 Lead service line replacement requirements.
 141.85 Public education and supplemental monitoring requirements.
 141.86 Monitoring requirements for lead and copper in tap water.
 141.87 Monitoring requirements for water quality parameters.
 141.88 Monitoring requirements for lead and copper in source water.
 141.90 Reporting requirements.
 141.91 Recordkeeping requirements.

Copies of the incorporated sections and subsections of Title 40 CFR are available from the Department of Health, Airdustrial Center Building 3, P.O. Box 47822, Olympia, Washington 98504-7822.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-030 General administration. (1) The department and the health officer for each local health jurisdiction ~~((shall))~~ may develop a joint plan of operation ~~((listing the roles of each agency for administering these rules))~~. This plan shall:

- (a) List the roles and responsibilities of each agency;
 (b) Specifically designate those Group A systems for which the department and local health officer have primary responsibility;
~~((b))~~ (c) Provide for a minimum ((acceptable)) level of water system supervision;
~~((e))~~ (d) Be signed by the department and the ((chairperson of the)) local ((board of)) health department or district; and
~~((d))~~ (e) Be reviewed at least once every five years and updated as needed.

Wherever in these rules the term "department" is used, the term "health officer" may be substituted based on the terms of this plan of operation.

(2) The department shall, upon request, review and report on the adequacy of water supply supervision to both the state and local boards of health.

(3) The local board of health may adopt rules governing ~~((public))~~ **Group A** water systems within its jurisdiction for which the health officer has assumed primary responsibility. Adopted local board of health rules shall be:

(a) No less stringent than this chapter; and

(b) Revised, if necessary, within twelve months after the effective date of revised state board of health rules. During this time period, existing local rules shall remain in effect, except provisions of the revised state board of health rules which are more stringent than the local board of health rules shall apply.

~~((4))~~ ~~((The health officer may waive any or all requirements of these rules for Group B water systems with two connections where the health officer has assumed primary responsibility for these systems.~~

~~((5))~~ (5) For those ~~((public))~~ **Group A** water systems where the health officer has assumed primary responsibility, the health officer may approve project reports and construction documents in accordance with engineering criteria approved by the department and listed under WAC 246-290-200.

~~((6))~~ (6) An advisory committee shall be established to provide guidance to the department on drinking water issues. Members shall be appointed by the department and conform to department policies for advisory committees. The committee shall be composed of representatives of public water systems, public groups, agencies, and individuals having an interest in drinking water.

~~((7))~~ (7) The department may develop guidelines to clarify sections of the rules as needed and make these available for distribution.

~~((8))~~ (8) Fees may be charged by the department as authorized in chapter 43.20B RCW and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of the costs incurred in administering these rules.

~~((9))~~ (9) All state and local agencies involved in review, approval, surveillance, testing, and/or operation of public water systems, or issuance of permits for buildings or sewage systems shall be governed by these rules and any decisions of the department.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-040 Engineering requirements. (1) Purveyors shall ensure that all water system plans, project reports, corrosion control recommendation reports, tracer studies, and construction documents are prepared ((by)) under the direction, and bear the seal and signature of a professional engineer:

(a) Licensed in the state of Washington under chapter 18.43 RCW; and

(b) Having specific expertise regarding design, operation, and maintenance of public water systems.

~~((All documents shall bear the professional engineer's seal and signature. Tracer studies, where required by this~~

~~chapter, shall also be prepared by a professional engineer licensed in accordance with chapter 18.43 RCW.~~

~~(2)) Exceptions to ((the professional engineer requirement in subsection (1) of) this ((section)) requirement are((= (a)) minor projects ((not requiring engineering expertise as determined by the department)) under WAC 246-290-120 (2)(a) through (d)((; and~~

~~(b) Public water systems serving less than ten service connections consisting of a simple well and pressure tank with one pressure zone and not providing special treatment or having special hydraulic considerations. These systems may be designed by a water system designer certified by the local health jurisdiction in those counties having a water system designer program recognized by the department)).~~

~~((3)) (2) Purveyors shall submit a *Construction Report For Public Water System Projects* to the department within sixty days of completion and before use of any project approved by the department. The form shall:~~

~~(a) Be signed by((=~~

~~(i)) a professional engineer((; or~~

~~(ii) In the case of projects identified in subsection (2)(b) of this section, by the certified designer)).~~

~~(b) State:~~

~~(i) The project is constructed and is substantially completed in accordance with approved construction documents; and~~

~~(ii) In the opinion of the engineer, based on information available, the installation, testing, and disinfection of the system was carried out per department guidelines.~~

~~((4)) (3) The purveyor shall ensure the requirements of this section are fulfilled before the use of any completed project. When required by the department, the purveyor shall submit an updated water facilities inventory form with the *Construction Report For Public Water System Projects* form.~~

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-060 Variances, exemptions, and waivers. (1) General.

(a) The state board of health may grant variances, exemptions, and waivers of the requirements of this chapter according to the procedures outlined in subsection (5) of this section. ~~((The procedures outlined in this section rather than the procedures outlined in WAC 246-08-210 shall govern the board's consideration of requests for variances, exemptions, and waivers of the requirements of this chapter.)) See WAC 246-290-300 (3)(g) and (7)(f) for monitoring waivers.~~

(b) Consideration by the board of requests for variances, exemptions, and waivers shall not be considered adjudicative proceedings as that term is defined in chapter 34.05 RCW.

(c) Statements and written material regarding the request may be presented to the board at or before the public hearing wherein the application will be considered. Allowing cross-examination of witnesses shall be within the discretion of the board.

(d) The board may grant a variance, exemption, or waiver if it finds:

(i) Due to compelling factors, the public water system is unable to comply with the requirements; and

(ii) The granting of the variance, exemption, or waiver will not result in an unreasonable risk to the health of consumers.

(2) Variances.

(a) MCL.

(i) The board may grant a MCL variance to a public water system that cannot meet the MCL requirements because of characteristics of the source water that is reasonably available to the system.

(ii) A MCL variance may only be granted after the system has applied the best available technology (BAT), treatment techniques, or other means as identified by the environmental protection agency (EPA) and still cannot meet a MCL as specified in section 1415, P.L. 99-523 as amended by P.L. 99-339.

(iii) A variance shall not be granted from the MCL for presence of total coliform under WAC 246-290-310(3).

(b) Treatment techniques.

(i) The board may grant a treatment technique variance to a public water system if the system demonstrates that the treatment technique is not necessary to protect the health of consumers because of the nature of the system's source water.

(ii) A variance shall not be granted from any treatment technique requirement under Part 6 of chapter 246-290 WAC.

(c) The board shall condition the granting of a variance upon a compliance schedule as described in subsection (6) of this section.

(3) Exemptions.

(a) The board may grant a MCL or treatment technique exemption to a public water system that cannot meet an MCL or provide the required treatment in a timely manner, or both, as specified under section 1416, P.L. 93-523 as amended by P.L. 99-339.

(b) An exemption may be granted for up to one year if the system was:

(i) In operation on the effective date of the MCL or treatment technique requirement; or

(ii) Not in operation on the effective date, and no reasonable alternative source of drinking water is available.

(c) No exemption shall be granted from:

(i) The requirement to provide a residual disinfectant concentration in the water entering the distribution system under WAC 246-290-662 or 246-290-692; or

(ii) The MCL for presence of total coliform under WAC 246-290-310(2).

(d) The board shall condition the granting of an exemption upon a compliance schedule as described in subsection (6) of this section.

(4) Waivers. The board may grant a waiver to a public water system if the system cannot meet the requirements of these regulations pertaining to any subject not covered by EPA regulations.

(5) Procedures.

(a) For variances and exemptions. The board shall consider granting a variance or exemption to a public water system upon completion of the following actions:

(i) The purveyor applies in writing to the department. The application, which may be in the form of a letter shall clearly state the reason for the request and what actions the purveyor has taken to meet the requirement;

(ii) The purveyor provides notice of the purveyor's application to customers and provides proof of such notice to the department;

(iii) The department prepares recommendations, including a compliance schedule for the board's consideration;

(iv) The board provides notice for and conducts a public hearing on the purveyor's request.

(v) EPA reviews any variance or exemption granted by the board for concurrence, revocation, or revision as provided under sections 1415 and 1416 of P.L. 93-523.

(b) For waivers. The board shall consider granting a waiver upon completion of the following actions:

(i) The purveyor applies to the department in writing. The application, which may be in the form of a letter, shall clearly state the reason for the request;

(ii) The purveyor provides notice of the purveyor's application to customers and provides proof of such notice to the department;

(iii) The department prepares a recommendation to the board; and

(iv) The board provides notice for and conducts a public hearing on the purveyor's request.

(6) Compliance schedule.

(a) The board shall condition the granting of a variance or exemption based on a compliance schedule. The compliance schedule shall include:

(i) Actions the purveyor must undertake to comply with a MCL or treatment technique requirement within a specified time period; and

(ii) A description and time-table for implementation of interim control measures the department may require while the purveyor completes the actions required in (a)(i) of this subsection.

(b) The purveyor shall complete the required actions in the compliance schedule within the stated time frame.

(7) Extensions to exemptions.

(a) The board may extend the final date of compliance prescribed in the compliance schedule for a period of up to three years after the date the exemption was granted upon a finding that the water system:

(i) Cannot meet the MCL or treatment technique requirements without capital improvements which cannot be completed within the original exemption period; or

(ii) Has entered into an agreement to obtain needed financial assistance for necessary improvements; or

(iii) Has entered into an enforceable agreement to become part of a regional public water system and the system is taking all practicable steps to meet the MCL.

(b) The board may extend the final date of compliance prescribed in the compliance schedule of an exemption for one or more additional two-year periods if the purveyor:

(i) Is a ~~((Group A))~~ community water system providing water to less than five hundred service connections; and

(ii) Needs financial assistance for the necessary improvements; and

(iii) Is taking all practicable steps to meet the compliance schedule.

(c) Procedures listed in subsection (5) of this section shall be followed in the granting of extensions to exemptions.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-100 Water system plan. (1) The purpose of this section is to establish a uniform process for purveyors to:

(a) Identify present and future needs;

(b) Set forth means for ~~((meeting))~~ addressing those needs; and

(c) Do so in a manner consistent with other relevant plans and local, state, and federal laws.

(2) Purveyors of the following categories of public water systems shall ensure the development and submittal of a water system plan for review and approval by the department:

(a) All ~~((public water))~~ systems having one thousand or more services;

(b) ~~((Public water))~~ Systems located in areas utilizing the Public Water System Coordination Act of 1977, chapter 70.116 RCW and chapter 248-56 WAC as required in WAC 246-293-230;

(c) Any ~~((public water))~~ system experiencing problems related to planning, operation, and/or management as determined by the department;

(d) Any expanding ~~((Group A water))~~ system;

(e) Any ~~((Group A water))~~ system for which a change of ownership is proposed; and

(f) All new ~~((Group A water))~~ systems.

(3) The department shall work with the purveyor and other parties to establish the level of detail for a water system plan. In general, the scope and detail of the plan will be related to size and complexity of the water system. Project reports may be combined with a water system plan.

(4) The water system plan shall address the following elements as a minimum for a period of at least twenty years into the future. A department guideline titled *Planning Handbook* is available to assist the utility in adequately addressing these elements:

(a) Basic water system planning data;

(b) Existing system analysis;

(c) Planned improvements;

(d) Conservation ~~((program))~~;

(e) Source of supply analysis when additional water rights are being pursued;

(f) Financial ~~((program))~~ viability;

~~((f)) Relationship and compatibility with other~~ (g) Consistency with adjacent water system plans~~((, including local growth management plans and development policies))~~;

~~((g))~~ (h) Consistency with applicable land use plans;

(i) Supporting maps;

~~((h))~~ (j) Operations program;

~~((i))~~ (k) Ownership and management;

~~((j))~~ (l) State Environmental Policy Act; and

~~((k) Watershed))~~ (m) Source protection, including a watershed control program or wellhead protection program when applicable under WAC 246-290-135.

(5) The department, at its discretion, may require reports from purveyors identifying the progress in developing their water system plans.

(6) Purveyors shall transmit water system plans to adjacent utilities and local governments having jurisdiction,

to assess consistency with ongoing and adopted planning efforts.

(7) Department approval of a water system plan shall be in effect for six years from the date of written approval unless:

(a) Major system improvements are contemplated which are not addressed in the plan;

(b) Changes occur in the basic planning data affecting improvements identified; or

(c) The department requests an updated plan.

~~((6))~~ (8) The purveyor shall update the plan and submit it for approval every six years. However, if only minor alterations to an existing plan are considered necessary, the purveyor may submit an amendment to the plan for department approval.

~~((7))~~ (9) Project reports and construction documents submitted for approval per WAC 246-290-110 and 246-290-120 by purveyors required to have a water system plan, will not be considered for approval unless there is a current approved water system plan and the plan adequately addresses the project.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-110 Project report. (1) The purpose of this section is to assure the following factors are taken into account for specific projects prior to construction:

(a) Engineering concepts;

(b) Design criteria;

(c) Planning;

(d) Source protection, including a watershed control program or wellhead protection program when applicable under WAC 246-290-135;

(e) Water quality and quantity;

(f) Results of the filtration facility pilot study;

(g) Local requirements such as fire flow;

(h) Facility operation;

(i) Short-term and long-term financing; and

(j) Other necessary department-determined considerations.

The project report shall document the reasons for carrying out the project and construction documents shall identify how the project will be constructed.

(2) The purveyor shall submit project reports to the department for written approval prior to installation of any new water system, water system extension, or improvement with the following exceptions:

(a) Installation of valves, fittings, and meters;

(b) Installation of hydrants under WAC 246-290-230;

(c) Repair of a system component or replacement with a similar component;

(d) Maintenance or painting of surfaces not contacting potable water; and

(e) Distribution mains if:

(i) Approved standard construction specifications are documented in the water system plan approved by the department; and

(ii) The purveyor provides documentation to the department that a professional engineer registered in Washington, certified the construction and that said construction

complied with the standard specifications found in the current department-approved water system plan; and

(iii) The purveyor provides documentation to the department of the pressure test results, disinfection procedures used and tests performed, and water quality sample results obtained prior to placing the distribution pipe into service.

(3) Project reports shall be consistent with the standards identified under WAC 246-290-200 and shall include, at a minimum, the following elements (information contained in a current approved water system plan or current project report need not be duplicated in the new project report. Any planning information in a project report shall be project specific.):

(a) Project description. Identify what the project is intended to achieve, design considerations, approach, etc.;

(b) Planning. If the system has an approved water system plan, show the project's relationship to the plan. If a water system plan is not required, include:

(i) General project background with population and water demand forecasts;

(ii) Relationship between the project and other system components;

(iii) Project schedule;

(iv) Management program; and

(v) How the project will impact neighboring water systems.

(c) Alternatives. Describe options, their impacts, and justify the selected alternative;

(d) Legal considerations. Identify legal aspects such as ownership, right-of-way, sanitary control area, and restrictive covenants. Include discussion of the project's relationship with the boundary review board and the utility and transportation commission;

(e) Engineering calculations. Describe how the project complies with the design considerations. Include the hydraulic analysis, sizing justification, and other relevant technical considerations necessary to support the project;

(f) Management. If the system has an approved management program, refer to that document. If not, describe:

(i) System ownership and management responsibilities;

(ii) Long-term management considerations;

(iii) How the project will be operated; and

(iv) How the project will be maintained over time.

(g) Implementation. Identify the schedule for completion of the project and implementation strategies, if any. Project phasing should also be discussed;

(h) State Environmental Policy Act (SEPA). Include an environmental impact statement, determination of nonsignificance, or justify why SEPA does not apply to the project. Refer to chapter 246-03 WAC and the *DOH Drinking Water SEPA Guide*;

(i) Source development information. If the project involves source development, address requirements under WAC 246-290-130; and

(j) Type of treatment. If the project involves treatment, refer to WAC 246-290-250.

~~((c))~~ The information required in this subsection shall be included in a letter addendum to the workbook for Group B water systems.)

(4) Approval of project documents shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

NEW SECTION

WAC 246-290-115 Corrosion control recommendation report. (1) Purveyors required to prepare a recommendation regarding optimal corrosion control pursuant to 40 CFR 141.81, shall prepare a report in accordance with WAC 246-290-040(1) for review by the department. The report shall, at a minimum, consist of:

(a) A narrative which includes the following information:

(i) Public water system name and public water system identification number;

(ii) Identification of the individual responsible for preparing the recommendation with name, address, phone number, and relation to the system;

(iii) Summary, by source, of all existing treatment processes and objectives (to include treatments only used on a periodic basis);

(iv) Description of existing corrosion control treatment processes and the operation of those processes;

(v) Summary of historical information regarding water quality, to include:

(A) Customer and user complaints;

(B) Prior corrosion control studies and recommendations of those studies; and

(C) Summary of any known water quality problems.

(vi) Description of future plans or designs which may influence system operation or water quality; and

(vii) Location of lead service lines present within the distribution system.

(b) A summary of sample analysis results which includes:

(i) Lead and copper tap sample results for each monitoring period in which samples were collected in accordance with 40 CFR 141.86 shall be summarized by:

(A) Maximum value;

(B) Minimum value;

(C) 90th percentile value; and

(D) The percent of samples exceeding the action level.

(ii) Initial water quality shall be summarized by:

(A) Determinations of source water lead and copper levels in accordance with 40 CFR 141.88(a) and 141.88(b); and

(B) Determinations of initial water quality parameters in accordance with 141.87(b);

(iii) A comparison of water quality parameters, prior to and after treatment for sources utilizing a treatment process. This comparison shall use, at a minimum, the water quality parameters listed in 40 CFR 141.82 (c)(3).

(c) A description and evaluation of those treatment technologies listed in 40 CFR 141.82 (c)(3) which are determined feasible with respect to:

(i) Water quality constraints;

(ii) Treatment processes; and

(iii) Operational considerations.

(d) Background information supporting the corrosion control treatment proposal shall include:

(i) Documentation of the methods utilized in the recommendation;

(ii) Information supporting the proposed treatment process or the proposed corrosion control demonstration study;

(iii) Description of treatment processes in similar systems with successful outcomes; and

(iv) Other information used by the system in making this recommendation.

(e) The treatment proposal which addresses the following:

(i) Source water treatment recommendations for lead and copper removal in accordance with 40 CFR 141.83. The recommendation shall include:

(A) Method of treatment; and

(B) Operating parameters necessary to ensure adequate treatment.

(ii) Corrosion control treatment including:

(A) Method of treatment; and

(B) Operating parameters necessary to ensure adequate treatment.

(iii) Performance of a demonstration corrosion control study including:

(A) Method of demonstration as listed in 40 CFR 141.82(c)(2);

(B) Treatment processes to be evaluated; and

(C) An evaluation of the similarity of systems when the demonstration corrosion control study is performed by another system.

(2) A guideline titled *Lead and Copper Rule Guidance Manual Volume II: Corrosion Control Treatment* is available to assist the purveyor in preparing this recommendation.

(3) The department may require the purveyor of a system to:

(a) Provide additional information; and/or

(b) Perform a corrosion control study in accordance with 141.82(c).

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-130 Source approval. (1) No new source, previously unapproved source, or modification of an existing source shall be used as a public water supply without department approval.

(2) A party seeking approval shall provide the department:

(a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;

(b) A hydrogeologic assessment of the proposed source along with a general description of the watershed, spring, and/or aquifer recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(c) Any information, in addition to (b) of this subsection, as requested by the department to determine whether a source is a GWI;

(d) For surface water and GWI sources, the watershed control program identified under WAC 246-290-135 and Part 6 of chapter 246-290 WAC;

(e) For wells and springs:

(i) A susceptibility assessment;

(ii) A preliminary WHPA designation using the calculated fixed radius method, with six month, one, five, and ten year time of travel criteria; and

(iii) An initial inventory of potential sources of ground water contamination located within the WHPA.

(f) Upstream water uses affecting either water quality or quantity;

((f)) (g) A map showing the project location and vicinity;

((g)) (h) A map depicting topography, distances to the surface water intake, well or spring from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

((h)) (i) The dimensions and location of the sanitary control area under WAC ((246-290-210)) 246-290-135;

((i)) (j) Copies of the recorded legal documents for the sanitary control area under WAC ((246-290-210)) 246-290-135;

((j)) (k) A copy of the on-site inspection approval made by the department or local health department representative;

((k)) (l) A copy of the water well report including the Washington well identification number, depth to open interval or top of screened interval, overall depth of well, and location (both plat location and latitude/longitude);

((l)) (m) Required construction documents in accordance with WAC 246-290-120;

((m)) (n) Documentation of source meter installation;

((n)) (o) Well source development data establishing the capacity of the source. Data shall include:

(i) Static water level;

(ii) Wellhead elevation;

(iii) Yield;

((iii)) (iv) The amount of drawdown;

((iv)) (v) Recovery rate;

((v)) (vi) Duration of pumping; and

((vi)) (vii) Interference between existing sources and the source being tested.

The source shall be pump tested at no less than the maximum design rate to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine the proper pump settings in the well. A department guideline on pump testing is available to assist purveyors;

((o)) (p) An initial analysis result of source water quality, including as a minimum the following:

(i) Bacteriological;

(ii) Complete inorganic chemical and physical;

(iii) VOC;

(iv) Radionuclide (if source being approved is for a community system); and

(v) Any other information required by the department.

When source water quality is subject to variation, the department may require additional analyses to define the range of variation;

((p)) (q) If treatment is planned, refer to WAC 246-290-250(2) and Part 6 of chapter 246-290 WAC, if applicable; and

((q)) (r) Other department-required information. Before initiating source development or modification, the purveyor shall contact the department to identify any such additional information.

((r)) (3) The department shall issue a written source approval when:

(a) The purveyor submits the necessary information to the satisfaction of the department; and

(b) The developed source provides water complying with this chapter.

(4) No new surface water or GWI sources with less than one hundred service connections shall be approved unless the system is owned and operated by an approved satellite management agency.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-135 Source protection. (1) The purveyor shall obtain drinking water from the highest quality source feasible. Existing and proposed sources of supply shall conform to the water quality standards established in WAC 246-290-310.

(2) The department may require monitoring and controls in addition to those specified in this section if, in the opinion of the department, a potential risk exists to the water quality of a source.

(3) Sanitary control area.

(a) The purveyor shall maintain a sanitary control area around all sources for the purpose of protecting them from existing and potential sources of contamination.

(b) For wells and springs, the minimum sanitary control area shall have a radius of one hundred feet (thirty meters) and two hundred feet (sixty meters) respectively, unless engineering justification supports a smaller area. The justification must address geological and hydrological data, well construction details and other relevant factors necessary to assure adequate sanitary control.

(c) The department may require a larger sanitary control area than specified in (b) of this subsection if geological and hydrological data support such a decision. It shall be the purveyor's responsibility to obtain the protection needed.

(d) No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the permission of the department and the purveyor.

(e) The sanitary control area shall be owned by the purveyor in fee simple, or the purveyor shall have the right to exercise complete sanitary control of the land through other legal provisions.

(f) A purveyor, owning all or part of the sanitary control area in fee simple or having possession and control, shall send to the department copies of legal documentation, such as a duly recorded declaration of covenant, restricting the use of the land. This legal documentation shall state:

(i) No source of contamination may be constructed, stored, disposed of, or applied without the permission of the department and the purveyor; and

(ii) If any change in ownership of the system or sanitary control area is considered, all affected parties shall be informed of these requirements.

(g) Where portions of the control area are in the possession and control of another, the purveyor shall obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with these rules and provide the department with copies of the appropriate documentation.

(4) Wellhead protection.

(a) Purveyors of water systems using ground water or spring sources shall develop and implement a wellhead protection program.

(b) The wellhead protection program shall be part of the water system plan required under WAC 246-290-100 or the small water system management program required under WAC 246-290-410.

(c) The purveyor's wellhead protection program shall contain, at a minimum, the following elements:

(i) A susceptibility assessment;

(ii) WHPA delineation for each well, wellfield, or spring with the one, five and ten year time of travel boundaries marked, or boundaries established using alternate criteria approved by the department in those settings where ground water time of travel is not a reasonable delineation criteria. WHPA delineations shall be done in accordance with recognized methods such as those described in the following sources:

(A) Washington State Wellhead Protection Program; or

(B) EPA Guidelines for Delineation of Wellhead Protection Areas, EPA 440/6-87-010;

(iii) A list of all actual and potential ground water contaminant sources located within the defined WHPA(s). This list shall be updated every two years;

(iv) Documentation of purveyor's notification to all owners/ operators of actual and potential sources of ground water contamination within the WHPA boundaries;

(v) Documentation of purveyor's notification to regulatory agencies and local governments of the boundaries of the WHPA(s) and the finding of the WHPA inventory;

(vi) A contingency plan to ensure consumers have an adequate supply of potable water in the event that contamination results in the temporary or permanent loss of the principal source of supply (major well(s) or wellfield); and

(vii) Documentation of coordination with local emergency spill responders (including police, fire and health departments), including notification of WHPA boundaries, results of susceptibility assessment, inventory findings, and contingency plan.

Sections in the department guidelines titled *Planning Handbook, Washington State Wellhead Protection Program, and Inventory of Potential Sources of Ground Water Contamination in Washington's Wellhead Protection Areas* address wellhead protection in more detail, and are available to purveyors establishing local wellhead protection programs.

(5) Watershed control program.

(a) Purveyors of water systems using surface water or GWI sources shall develop and implement a watershed control program in accordance with Part 6 of chapter 246-290 WAC as applicable.

(b) The watershed control program shall be part of the water system plan required in WAC 246-290-100 or the small water system management program required in WAC 246-290-410.

(c) The purveyor's watershed control program shall contain, at a minimum, the following elements:

(i) Watershed description and inventory, including location, hydrology, land ownership and activities which may adversely affect source water quality;

(ii) Watershed control measures, including documentation of ownership and relevant written agreements, and monitoring of activities and water quality;

(iii) System operation, including emergency provisions; and

(iv) Documentation of water quality trends.

Sections in the department guideline titled *Planning Handbook* and in the *DOH SWTR Guidance Manual* address watershed control and are available to purveyors establishing watershed control programs.

(d) The purveyor shall submit the watershed control program to the department for approval. Following departmental approval, the purveyor shall implement the watershed control program as approved.

(e) Purveyors of systems using unfiltered surface or GWI sources and meeting the criteria to remain unfiltered as specified in WAC 246-290-690 shall submit an annual report to the department which summarizes the effectiveness of the watershed control program. Refer to WAC 246-290-690 for further information about this report.

(f) The purveyor shall update the watershed control program at least every six years, or more frequently if required by the department.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-140 Existing system approval. (1) When applying for approval, purveyors of existing public water systems without approved construction documents shall provide department-determined information.

(2) Information provided shall be consistent with chapter 248-54 WAC.

(3) Purveyors shall contact the department to obtain a list of specific requirements including, for wells and springs:

(a) A susceptibility assessment;

(b) A preliminary WHPA designation using the calculated fixed radius method, with six month, one, five, and ten year time of travel criteria; and

(c) An initial inventory of potential sources of ground water contamination located within the WHPA.

(4) After receipt of the required data, the department shall review the information and either:

(a) Approve the as-built construction documents; or

(b) Indicate what additional actions the purveyor needs to complete before approval is granted.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-230 Distribution systems. (1) Distribution reservoirs completed after June 1, 1975, shall have suitable watertight roofs or covers preventing entry by birds, animals, insects, and dust and shall include appropriate provisions to safeguard against trespass, vandalism, and sabotage. Purveyors with uncovered distribution reservoirs in use before June 2, 1975, shall comply with the provisions of WAC 246-290-470 until suitable watertight roofs or

covers are installed. Purveyors with uncovered distribution reservoirs shall submit a plan and schedule to cover all reservoirs to the department for approval before January 1, 1996.

(2) The purveyor shall size and evaluate the distribution system using a hydraulic analysis acceptable to the department.

(3) The minimum diameter of all distribution mains shall be six inches (150 mm) unless justified by hydraulic analysis. Systems designed to provide fire flows shall have a minimum distribution main size of six inches (150 mm). Installation of standard fire hydrants shall not be allowed on mains less than six inches (150 mm) in diameter.

(4) New public water systems or additions to existing systems shall provide a design quantity of water at a positive pressure of at least 30 psi (200 kPa) under peak hourly design flow conditions measured at any customer's water meter or at the property line if no meter exists.

(5) If fire flow is to be provided, the distribution system shall be designed to provide the required fire flow at a pressure of at least 20 psi during peak hourly design flow conditions.

(6) Booster pumps needed for individual services shall be subject to review and approval by the department. Installation shall be made under the supervision of the purveyor to assure cross-connection control requirements are met.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-300 Monitoring requirements. (1) General.

(a) ~~((The purveyor shall comply with the requirements of this section.))~~ The monitoring requirements specified in this section are minimums. The department may require additional monitoring when:

(i) Contamination is present or suspected in the water system;

(ii) The department determines a ground water source may be a GWI; ~~((or))~~

(iii) The department determines the degree of source protection is not satisfactory;

(iv) The department determines additional monitoring is needed to verify source vulnerability for a requested monitoring waiver; or

(v) Under other circumstances as identified in a departmental order.

(b) Special purpose samples collected by the purveyor shall not count toward fulfillment of the monitoring requirements of this chapter unless both quality of data and method of analysis are acceptable to the department.

(c) The purveyor shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to department-approved methods. The analyses shall be performed by the state public health laboratory or another laboratory certified by the department. Qualified water utility, certified laboratory, or health department personnel may conduct measurements for pH, temperature, residual disinfectant concentration and turbidity as required by this chapter, provided, these measurements are made in accordance with "standard methods."

(d) Compliance samples required by this chapter shall be taken at locations listed in Table 3 of this section.

(e) When one public water system sells water to another public water system, the purveyor of the selling system, regardless of size, shall conduct at least the minimum source monitoring required by this chapter for ~~((Group A))~~ community systems.

~~((e))~~ (f) When one public water system receives completely treated water, as determined by the department, from another public water system, the purveyor of the receiving system ~~((is only required to))~~ shall:

(i) Collect coliform samples in accordance with subsection (2) of this section;

(ii) Collect trihalomethane ~~((THM))~~ samples in accordance with subsection (5) of this section; ~~((and))~~

(iii) Perform the distribution system residual disinfectant ~~((residual))~~ concentration monitoring required under WAC 246-290-440 or 246-290-694 ~~((if applicable));~~

(iv) Perform lead and copper monitoring required under 40 CFR 141.86, 141.87, and 141.88; and

(v) Perform the distribution system monitoring in accordance with 40 CFR 141.23(b) for asbestos if applicable.

~~((f))~~ (g) The department may reduce the coliform ~~((and)), lead and copper, THM and distribution system disinfectant residual concentration~~ monitoring requirements of the receiving system provided the receiving system:

(i) Has a satisfactory water quality history as determined by the department;

(ii) Operates in a satisfactory manner consistent with this chapter;

(iii) ~~((Is included in the supplying system's regular monitoring schedule))~~ Purchases water from a purveyor which has a department-approved regional monitoring program; and

(iv) ~~((Is included in the service and population totals for the supplying system))~~ Has a written agreement with the supplying system that is acceptable to the department, which identifies the responsibilities of both the supplying and receiving system with regards to monitoring, reporting and maintenance of the distribution system.

~~((g))~~ (h) The department may periodically review both the selling and receiving system's sampling records to determine if continued reduced monitoring is appropriate. If the department determines a change in the monitoring requirements of the receiving system is appropriate:

(i) The department shall notify the purveyor of the change in monitoring requirements; and

(ii) The purveyor shall conduct monitoring as directed by the department.

~~((h))~~ (i) Purveyors failing to comply with a monitoring requirement shall notify:

(i) The department in accordance with WAC 246-290-480; and

(ii) The water system users in accordance with WAC 246-290-330.

(2) Bacteriological.

(a) The purveyor shall be responsible for collection and submittal of coliform samples from representative points throughout the distribution system after the first service and at regular time intervals at least once per calendar month unless otherwise specified in this subsection, each month the system provides water to consumers.

(b) Coliform monitoring plan.

(i) The purveyor (~~(of a Group A system)~~) shall prepare a written coliform monitoring plan and base routine monitoring upon the plan. A department guideline titled *Preparation of a Coliform Monitoring Plan* is available to assist the purveyor in preparing this plan.

(ii) The plan shall include at a minimum:

- (A) A system map or diagram showing the locations of:
 - (I) Water sources;
 - (II) Storage, treatment, and pressure regulation facilities;
 - (III) Distribution systems;
 - (IV) Pressure zones;
 - (V) Interconnections; and
 - (VI) Coliform sample collection sites.

(B) A narrative which includes the following information:

- (I) Public water system identification number;
- (II) Population served and services;
- (III) Water sources;
- (IV) System facilities and processes for storage, treatment, and pressure regulation;
- (V) Coliform sample collection sites; and
- (VI) Sampling schedules.

(iii) The purveyor (~~(of a Group A system)~~) shall:

(A) Keep the coliform monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer ensures representative monitoring of the system, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(c) Monitoring frequency. The number of required routine coliform samples is based on total population served.

(i) ~~(Group A-~~

~~(A))~~ Purveyors of **community** systems shall collect and submit for analysis no less than the number of routine samples listed in Table 2 during each calendar month of operation;

~~((B))~~ (ii) Purveyors of **noncommunity** systems shall collect and submit for analysis no less than the number of samples required in Table 2. Each month's population shall be based on the average daily population and shall include all residents and nonresidents served during that month. During months when the ~~((total))~~ average daily population served is less than twenty-five, routine sample collection is not required when:

~~((H))~~ (A) Using only protected ground water sources;

~~((H))~~ (B) No coliforms were detected in samples during the previous month; and

~~((H))~~ (C) One routine sample has been collected and submitted for analysis during one of the previous two months.

~~((E))~~ (iii) Purveyors of systems serving both a resident and a nonresident population shall base their minimum sampling requirement on the total of monthly populations served, both resident and nonresident and on Table 2; and

~~((D))~~ (iv) Purveyors of systems with a nonresident population lasting two weeks or less during a month shall sample as directed by the department.

~~((ii) Group B. Purveyors shall collect and submit a sample for coliform analysis at least once every twelve months:))~~

(d) Surface water or ground water under the direct influence of surface water (GWI) sources. ~~((The))~~ A purveyor (~~(of a Group A system)~~) using unfiltered surface water or unfiltered GWI sources shall:

(i) Collect and submit for analysis, at least one coliform sample at the first service connection during each day in which source water turbidity exceeds ~~((+))~~ 1.0 NTU; or

(ii) Collect samples as directed by the department when logistical problems beyond the purveyor's control make analysis of the coliform samples impractical because the time between sample collection and analysis exceeds thirty hours. If the department extends the time limits, the purveyor shall collect the required samples as directed by the department.

(e) Comprehensive system evaluations (CSEs).

(i) Purveyors of ~~((Group A))~~ systems with less than four thousand one hundred one population served shall:

(A) Submit to a CSE conducted by the department; or

(B) Collect and submit for analysis five or more routine samples each month.

(ii) ~~((Group A systems))~~ Purveyors electing to have CSEs conducted shall be evaluated by the department based on the following schedule:

(A) **Community** water systems, every five years. The initial CSE shall be conducted by June 29, 1994; and

(B) **Noncommunity** systems, every five years unless the system uses only disinfected and protected ground water as determined by the department, in which case the evaluation need only be repeated every ten years. The initial CSE shall be conducted by June 29, 1999.

(iii) The department may substitute source of contamination information from the wellhead protection program for CSE information if the information was collected since the last CSE; and

(iv) Purveyors ~~((of Group A systems))~~ collecting less than five routine samples per month shall be responsible for:

(A) Ensuring full cooperation in scheduling CSEs; and

(B) Making all facilities and records available to the department for the CSE.

(f) Invalid samples. When a coliform sample is determined invalid under WAC 246-290-320 (2)(d), the purveyor shall:

(i) Not include the sample in the determination of monitoring compliance; and

(ii) Collect and submit for coliform analysis, an additional drinking water sample from the same location as each invalid sample within twenty-four hours of notification by the laboratory of the invalid sample.

(g) The purveyor using a surface water or GWI source shall collect representative source water samples for bacteriological density analysis in accordance with WAC 246-290-664 and 246-290-694 as applicable.

TABLE 2

MINIMUM MONTHLY ROUTINE COLIFORM SAMPLING REQUIREMENTS ~~((FOR GROUP A SYSTEMS))~~

Population Served ¹	Minimum Number of Routine Samples/Calendar Month	
	When NO samples with a coliform	When ANY samples with a coliform

PERMANENT

During Month	presence were collected during the previous month	presence were collected during the previous month
1 - 1,000	1 ²	5
1,001 - 2,500	2	5
2,501 - 3,300	3	5
3,301 - 4,100	4	5
4,101 - 4,900	5	5
4,901 - 5,800	6	6
5,801 - 6,700	7	7
6,701 - 7,600	8	8
7,601 - 8,500	9	9
8,501 - 12,900	10	10
12,901 - 17,200	15	15
17,201 - 21,500	20	20
21,501 - 25,000	25	25
25,001 - 33,000	30	30
33,001 - 41,000	40	40
41,001 - 50,000	50	50
50,001 - 59,000	60	60
59,001 - 70,000	70	70
70,001 - 83,000	80	80
83,001 - 96,000	90	90
96,001 - 130,000	100	100
130,001 - 220,000	120	120
220,001 - 320,000	150	150
320,001 - 450,000	180	180
450,001 - 600,000	210	210
600,001 - 780,000	240	240
780,001 - 970,000	270	270
970,001 - 1,230,000 ³	300	300

¹ Does not include population of utilities (~~wholesaled to, except as provided under WAC 246-290-300 (1)(e))~~ purchasing water.

² Noncommunity systems using only protected ground water sources and serving less than 25 individuals, may collect and submit for analysis, one sample every three months.

³ Systems serving populations larger than 1,230,000 shall contact the department for the minimum number of samples required per month.

(3) Inorganic chemical and physical.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical (~~(standards)~~) substances.

(i) Primary chemical and physical (~~(standards)~~) substances are antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and turbidity.

(ii) Secondary chemical and physical (~~(standards)~~) substances are chloride, color, hardness, iron, manganese, specific conductivity, silver, sulfate((^{*})), total dissolved solids*, and zinc.

*Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) (~~Samples taken for inorganic chemical analyses~~) Purveyors shall (~~be collected at the source before treatment~~) monitor in accordance with 40 CFR 141.23(a) through 141.23(j), except for composite samples for systems serving less than 3,300 persons. For these systems, compositing among different systems may be allowed if the systems are owned or operated by a department-approved satellite management agency. A department guideline titled *Inorganic and Organic Chemical Monitoring Plans* is available on request.

(c) (~~Monitoring frequency~~) Samples required by this subsection shall be taken at designated locations in accor-

dance with 40 CFR 141.23(a) through 141.23(j) and Table 3 herein.

(i) (~~Purveyors of community systems shall have one complete analysis from each surface water source every twelve months~~) Wellfield samples shall be allowed from department designated wellfields; and

(ii) (~~Purveyors of community systems shall have one complete analysis from each ground water source or well field every thirty six months;~~

(iii) ~~Purveyors of NTNC, TNC, and Group B systems shall have one initial complete analysis from each source or well field. The department may waive or reduce the minimum requirement for the initial complete analysis if available information shows, to the department's satisfaction, that the aquifer provides water of satisfactory inorganic chemical quality; and~~

(iv) ~~After the initial complete analysis, NTNC, TNC, and Group B systems shall have one nitrate sample analyzed from each source or well field every thirty six months~~) In accordance with 40 CFR 141.23 (a)(3), alternate sampling locations may be allowed if approved by the department. These alternate sites are described in the department guideline titled *Inorganic and Organic Chemical Monitoring Plans*. Purveyors of community and NTNC systems may ask the department to approve an alternate sampling location for multiple sources within a single system which are blended prior to entry to the distribution system. Department approval shall consider the following:

(A) Source vulnerability;

(B) Updated inorganic monitoring plan showing location of all sources with current and proposed sampling locations;

(C) Individual source characteristics;

(D) Previous water quality information;

(E) Status of monitoring waiver applications; and

(F) Other information deemed necessary by the department.

(d) Composite samples:

(i) In accordance with CFR 141.23 (a)(4), purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in the department guideline titled *Inorganic and Organic Chemical Monitoring Plans*; and

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(e) When the purveyor provides treatment for one or more inorganic chemical or physical contaminants, (~~samples shall be taken for the specific contaminant or contaminants~~) the department may require the purveyor to sample before and after treatment. The department shall (~~determine the frequency of~~) notify the purveyor if and when this additional source sampling is required.

(f) Inorganic monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an inorganic chemical monitoring plan and conduct routine monitoring in accordance with the plan. A department guideline titled *Inorganic and Organic Chemical Monitoring Plans* is available to assist the purveyor in preparing this plan.

(ii) The plan shall include, at a minimum:

PERMANENT

(A) A system map or diagram showing the location of:

- (I) Water sources;
- (II) Storage, treatment, and distribution system; and
- (III) Inorganic sample collection locations.

(B) A narrative which includes the following information:

(I) The system's public water system identification number;

(II) Population served and number of services;

(III) Water sources;

(IV) Storage, treatment, and distribution system;

(V) Inorganic sampling locations (including asbestos if applicable);

(VI) Source vulnerability ratings and status of monitoring waiver applications; and

(VII) Sampling schedule.

(iii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(g) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any nonnitrate/nitrite inorganic chemical and physical monitoring requirements identified in this chapter.

(ii) Purveyors requesting a monitoring waiver shall comply with applicable subsections of 40 CFR 141.23 (b)(3), 141.23 (c)(3), and 141.40 (n)(4). A department guideline titled *Source Vulnerability and Monitoring Waivers* is available to assist purveyors.

(iii) Purveyors shall update and resubmit requests for waiver renewals as applicable during each compliance cycle or period or more frequently as directed by the department.

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(h) The department may require the purveyor to repeat sample for confirmation of results.

(i) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(4) Lead and copper. Monitoring for lead and copper shall be conducted in accordance with 40 CFR 141.86, 141.87, and 141.88.

(5) Turbidity.

(a) Purveyors of (~~(Group A water)~~) systems with surface water or GWI sources and installing filtration, and other (~~(Group A)~~) water systems as directed by the department, shall monitor turbidity a minimum of once per day at the entry to the distribution system.

(b) For purveyors of systems installing filtration, the monitoring requirement of (a) of this subsection is effective between written department notification of the filtration requirement and installation of filtration. Once filtration is installed, the purveyor shall monitor turbidity in accordance with WAC 246-290-664.

(c) Purveyors of (~~(Group A water)~~) systems with surface water or GWI sources not subject to the requirements specified in (a) of this subsection, shall monitor turbidity in accordance with Subpart B or Subpart D of Part 6 of chapter 246-290 WAC, whichever is applicable.

~~(d) ((The department shall determine monitoring requirements for Group B water systems.~~

~~(e))~~ Purveyors conducting turbidity measurements shall ensure that analytical requirements are met, in accordance with WAC 246-290-638, at all times the system serves water to the public.

~~((5))~~ (6) Trihalomethanes.

(a) Purveyors of **community** systems serving a population of ten thousand or more and providing water treated with chlorine or other halogenated disinfectant shall monitor as follows:

(i) Ground water sources. The purveyor shall collect one sample from each treated spring, well, or well field every twelve months. This sample shall be taken at the source before treatment or at the extreme end of the distribution system. The sample shall be analyzed for maximum total trihalomethane potential (MTTP); or

(ii) Surface water sources. The purveyor shall collect four samples per treated source every three months. The samples shall be taken within a twenty-four-hour period. The purveyor shall take one of the samples from the extreme end of the distribution system and three samples from representative locations in the distribution system. The samples shall be analyzed for total trihalomethanes (TTHM), the sum of trichloromethane, bromodichloromethane, dibromochloromethane, and tribromomethane. After one year of monitoring, the department may reduce the monitoring frequency to one sample every three months per treatment plant if the TTHM levels are less than 0.10 mg/L. The purveyor shall take the sample at the extreme end of the distribution system; or

(iii) Purchased surface water sources. The purveyor shall collect one water sample per each purchased surface source every three months. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM.

(b) Purveyors of **community** systems shall monitor for TTHM when serving a population less than ten thousand and providing surface water treated with chlorine or other halogenated disinfectant. The purveyor shall collect one water sample per treated source every three months for one year. The sample shall be taken at the extreme end of the distribution system and analyzed for TTHM. After the first year, the purveyor shall monitor surface water sources every thirty-six months.

(c) Purveyors of **community** systems shall monitor for TTHM when serving less than ten thousand people and purchasing surface water treated with chlorine or other halogenated disinfectant or adding a halogenated disinfectant after purchase. The purveyor shall collect one water sample every three months at the extreme end of the distribution system or at a department-acceptable location. The sample shall be analyzed for TTHM. After the first year, the purveyor shall monitor every thirty-six months.

~~((6) Pesticides.~~

~~Purveyors of community systems with surface water sources shall monitor for pesticides for which MCLs are~~

established every thirty-six months. The purveyor shall collect the water sample during the time of year the department designates as the time when pesticide contamination is most likely to occur.)

(7) Organic chemicals.

(a) Purveyors of community and NTNC water systems shall comply with monitoring requirements in accordance with 40 CFR 141.24(a), 141.24(f), 141.24(g), 141.24(h), 141.40(a), 141.40(d), and 141.40(e).

(b) Sampling locations shall be as defined in 40 CFR 141.24(f), 141.24(g), 141.24(h), 141.40(b) and 141.40(c).

(i) Wellfield samples shall be allowed from department designated wellfields; and

(ii) In accordance with 40 CFR 141.24 (f)(3) and 141.24 (h)(3), alternate sampling locations may be allowed if approved by the department. These alternate locations are described in the departmental guideline titled *Inorganic and Organic Chemical Monitoring Plans*. Purveyors may ask the department to approve an alternate sampling location for multiple sources within a single system which are blended prior to entry to the distribution system. Department approval shall consider the following:

(A) Source vulnerability;

(B) An updated organic monitoring plan showing location of all sources with current and proposed sampling locations;

(C) Individual source characteristics;

(D) Previous water quality information;

(E) Status of monitoring waiver applications; and

(F) Other information deemed necessary by the department.

(c) Composite samples:

(i) Purveyors may ask the certified lab to composite samples representing as many as five individual samples from within one system. Sampling procedures and protocols are outlined in the department guideline titled *Inorganic and Organic Chemical Monitoring Plans*;

(ii) For systems serving a population of less than three thousand three hundred one, the department may approve composite sampling between systems when those systems are part of an approved satellite management agency.

(d) The department may require the purveyor to sample both before and after treatment for one or more organic contaminants. The department shall notify the purveyor if and when this additional source sampling is required.

(e) Organic chemical monitoring plans.

(i) Purveyors of community and NTNC systems shall prepare an organic chemical monitoring plan and conduct routine monitoring in accordance with the plan. A department guideline titled *Inorganic and Organic Chemical Monitoring Plans* is available to assist the purveyor in preparing this plan.

(ii) The plan shall include at a minimum:

(A) A system map or diagram showing the location of:

(I) Water sources;

(II) Storage, treatment, and distribution system; and

(III) Organic sample collection locations.

(B) A narrative which includes the following information:

(I) The system's public water system identification number;

(II) Population served and number of services;

(III) Water sources;

(IV) Storage, treatment, and distribution system;

(V) Organic sampling locations;

(VI) Source vulnerability ratings and status of monitoring waiver applications; and

(VII) Sampling schedule.

(iii) The purveyor shall:

(A) Keep the monitoring plan on file with the system and make it available to the department for inspection upon request;

(B) Revise or expand the plan at any time the plan no longer reflects the monitoring requirements, procedures or sampling locations, or as directed by the department; and

(C) Submit the plan to the department for review and approval when requested and as part of the water system plan required under WAC 246-290-100.

(f) Monitoring waivers.

(i) Purveyors may request in writing, a monitoring waiver from the department for any organic monitoring requirement except those relating to unregulated VOCs;

(ii) Purveyors requesting a monitoring waiver shall comply with 40 CFR 141.24 (f)(7), 141.24 (f)(10), 141.24 (h)(6), 141.24 (h)(7) or 141.40 (n)(4). A department guideline titled *Source Vulnerability and Monitoring Waivers* is available to assist purveyors;

(iii) Purveyors shall update and resubmit requests for waiver renewals as directed by the department; and

(iv) Failure to provide complete and accurate information in the waiver application shall be grounds for denial of the monitoring waiver.

(g) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(8) Unregulated chemicals.

(a) Unregulated inorganic contaminants. Purveyors of community and NTNC systems shall:

(i) Monitor for the unregulated inorganic chemicals listed in 40 CFR 141.40 (n)(12); and

(ii) Comply with monitoring methods, frequencies, and sampling locations in accordance with 40 CFR 141.40 (n)(2) through 141.40 (n)(9) and 141.40 (n)(12).

(iii) Apply in writing for a monitoring waiver according to the conditions outlined in 40 CFR 141.40 (n)(3), and the departmental procedures described in subsection (7)(f) of this section.

(iv) Request the department to defer this monitoring if they are a system with less than one hundred fifty service connections.

(b) Unregulated VOCs. Purveyors shall:

(i) Monitor in accordance with 40 CFR 141.40(e) and 141.40(i);

(ii) Comply with monitoring methods, frequency and sampling locations in accordance with 40 CFR 141.40(a) through 141.40(d), 141.40(g) and 141.40(i); and

(iii) Perform repeat monitoring for these compounds in accordance with 40 CFR 141.40(l).

(c) Unregulated SOCs. Purveyors shall:

(i) Monitor for the unregulated SOCs listed in 40 CFR 141.40 (n)(11); and

(ii) Comply with monitoring methods, frequencies, and sampling locations in accordance with 40 CFR 141.40 (n)(1) through 141.40 (n)(9).

Purveyors may request that the department defer this monitoring if a system has less than one hundred fifty service connections.

(d) Purveyors with emergency and seasonal sources shall monitor those sources when they are in use.

(9) Radionuclides.

(a) The purveyor's monitoring requirements for gross alpha particle activity, radium-226 and radium-228 shall be:

(i) **Community** systems shall monitor once every forty-eight months. Compliance shall be based on the analysis of an annual composite of four consecutive quarterly samples or the average of the analyses of four samples obtained at quarterly intervals;

(ii) The purveyor may omit analysis for radium-226 and radium-228 if the gross alpha particle activity is less than five pCi/L; and

(iii) If the results of the initial analysis are less than half of the established MCL, the department may allow compliance with the monitoring requirements based on analysis of a single sample collected every forty-eight months.

(b) The purveyor's monitoring requirements for man-made radioactivity shall be:

(i) Purveyors of **community** systems using surface water sources and serving more than one hundred thousand persons and other department-designated water systems shall monitor for man-made radioactivity (beta particle and photon) every forty-eight months. Compliance shall be based on the analysis of a composite of four consecutive quarterly samples or the analysis of four quarterly samples; and

(ii) The purveyor of a water system located downstream from a nuclear facility as determined by the department, shall monitor once every three months for gross beta and iodine-131, and monitor once every twelve months for strontium-90 and tritium. The department may allow the substitution of environmental surveillance data taken in conjunction with a nuclear facility for direct monitoring of man-made radioactivity if the department determines that such data is applicable to a particular public water system.

~~((8) Volatile organic chemicals (VOCs).~~

~~(a) Purveyors of **community** and NTNC systems shall monitor each source for all chemicals listed in Table 3. If a source is treated, VOC samples shall be collected after treatment.~~

TABLE 3

LIST 1: VOLATILE ORGANIC CHEMICALS (VOCs) WITH MCLs

- Trichloroethylene
- Carbon Tetrachloride
- Vinyl Chloride[†]
- 1,2-Dichloroethane
- Benzene
- para-Dichlorobenzene
- 1,1-Dichloroethylene
- 1,1,1-Trichloroethane

[†] Purveyors shall monitor for vinyl chloride if their source sampling has verified one or more of the following:

- Trichloroethylene;
- 1,2-Dichloroethane;
- 1,1-Dichloroethylene;
- 1,1,1-Trichloroethane;

- Chloroethane;
- trans-1,2-Dichloroethylene;
- cis-1,2-Dichloroethylene;
- 1,1-Dichloroethane;
- 1,1,2-Trichloroethane;
- 1,1,1,2-Tetrachloroethane;
- 1,1,2,2-Tetrachloroethane; or
- Tetrachloroethylene.

LIST 2: VOCs WITHOUT MCLs

- Bromobenzene ————— p-Xylene
- Bromomethane ————— o-Xylene
- Chlorobenzene ————— m-Xylene
- Chloroethane ————— Bromochloromethane
- Chloromethane ————— n-Butylbenzene
- o-Chlorotoluene ————— Dichlorodifluoromethane
- p-Chlorotoluene ————— Fluorotrichloromethane
- Dibromomethane ————— Hexachlorobutadiene
- m-Dichlorobenzene ————— Isopropylbenzene
- o-Dichlorobenzene ————— p-Isopropyltoluene
- trans-1,2-Dichloroethylene ————— Naphthalene
- cis-1,2-Dichloroethylene ————— n-Propylbenzene
- Dichloromethane ————— Sec-butylbenzene
- 1,1-Dichloroethane ————— Tert-butylbenzene
- 1,1-Dichloropropene ————— 1,2,3-Trichlorobenzene
- 1,2-Dichloropropane ————— 1,2,4-Trichlorobenzene
- 1,3-Dichloropropane ————— 1,2,4-Trimethylbenzene
- 1,3-Dichloropropene ————— 1,3,5-Trimethylbenzene
- 2,2-Dichloropropane ————— Trihalomethanes:
- Ethylbenzene ————— Bromodichloromethane
- Styrene ————— Dibromochloromethane
- 1,1,2-Trichloroethane ————— Tribromomethane
- 1,1,1,2-Tetrachloroethane ————— Trichloromethane
- 1,1,2,2-Tetrachloroethane
- Tetrachloroethylene
- 1,2,3-Trichloropropane
- Toluene

LIST 3: VOCs WITHOUT MCLs WHICH ARE REQUIRED FOR SELECTED SOURCES

- Ethylene dibromide (EDB) — 1,2-Dibromo-3-Chloropropane (DBCP)

(b) During the first twelve months of VOC monitoring, purveyors shall sample surface water and ground water sources once every three months or as directed by the department. If no VOCs (exclusive of THMs) are detected in the first sample from a ground water source, the purveyor shall sample that source once more during that twelve-month period.

(c) If no VOCs (exclusive of THMs) are verified after the initial twelve months of monitoring, purveyors of **community** and NTNC water systems shall monitor each source at least once every thirty-six months.

(d) Purveyors may ask the certified lab to composite samples representing as many as five individual sources. If VOCs (exclusive of THMs) are detected in a composite sample, the lab shall analyze the duplicate sample for each source in the composite at the purveyor's expense. If duplicate samples are not available, the purveyor shall repeat sample each individual source within fourteen days of contact by the department. Analysis of all VOC samples

PERMANENT

shall occur within fourteen days of collection. The following restrictions shall apply to compositing of samples:

- (i) Samples shall not be composited in the field;
- (ii) Multiple source samples, such as samples representing well fields, shall not be composited;
- (iii) Ground water sources shall not be composited with surface water sources; and
- (iv) The following shall not be composited:
 - (A) Seasonal sources;
 - (B) Sources treated for the presence of synthetic organic chemicals; and

(C) Sources with synthetic organic chemicals, exclusive of THMs, detected within the last five years.

(e) Purveyors with emergency and seasonal sources shall monitor the sources when the sources are in use.

(f) If five or fewer separate sources are combined through a common pipe before entering the distribution system, and before a domestic service, the department may consider those sources as one for the purpose of sampling. The purveyor shall collect the distribution samples as directed by the department. If VOCs, exclusive of THMs, are detected, the department shall require repeat samples from each individual source.

(g) The department may require the purveyor to repeat sample for confirmation of results.

(h) The department shall not require purveyors of community systems serving less than two hundred fifty people and NTNC systems to monitor for the List 2 VOCs after purveyors complete the first twelve months of VOC monitoring for both List 1 and List 2 VOCs, provided no VOCs, exclusive of THMs, are detected and no changes have occurred indicating a need to take additional samples.

(i) Purveyors of community and NTNC systems shall monitor for List 3 VOCs if the department determines their sources are located in an area where the chemicals may have been applied, transported, handled, manufactured, or stored. The department shall notify purveyors of community and NTNC systems if this requirement applies.

(j) When water is purchased from another system, the department shall not require the purveyor of the purchasing system to monitor that source for VOCs. However, the department's requirement may still apply for a purveyor to monitor for trihalomethanes under subsection (5) of this section.

(k) Only samples analyzed after January 1, 1988, by a laboratory certified for VOC analysis of drinking water may be used to meet the requirements of this subsection.

(9)) (10) Other substances.

On the basis of public health concerns, the department may require the purveyor to monitor for additional substances.

TABLE ((4)) 3
MONITORING LOCATION

Sample Type	Sample Location
Asbestos	<u>One sample from distribution system or if required by department, from the source.</u>
Bacteriological	From representative points throughout distribution system.

Complete Inorganic Chemical and Physical

From a ((sample)) point ((as close to)) representative of the source ((as possible)), after treatment, and prior to entry to the distribution system.

Lead/Copper

From the distribution system at targeted sample tap locations.

Nitrate/Nitrite

From a ((sample)) point ((as close to)) representative of the source ((as possible)), after treatment, and prior to entry to the distribution system.

Turbidity - Surface Water

From a location at or before the entry point to the distribution system.

Trihalomethanes - Surface Water

From representative points in the distribution system.

- Ground Water

From the source before treatment.

~~((Pesticides - Surface Water - From the source.))~~

Radionuclides

From the source.

Organic Chemicals (VOCs & SOCs)

From a point representative of the source, after treatment((if any, at)) and prior to entry ((points)) to distribution system((s)).

Other Substances (unregulated chemicals)

From a point representative of the source, after treatment, and prior to entry to the distribution system, or as directed by the department.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-310 Maximum contaminant levels (MCLs). (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a substance exceeds its maximum contaminant level (MCL), the purveyor shall take follow-up action in accordance with WAC 246-290-320.

((2)) (b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

((3)) (2) Bacteriological.

(a) MCLs under this subsection shall be considered primary standards.

(b) Notwithstanding subsection (1) of this section, if coliform presence is detected in any sample, the purveyor shall take follow-up action in accordance with WAC 246-290-320(2).

(c) Acute MCL. An acute MCL for coliform bacteria occurs when there is:

- (i) Fecal coliform presence in a repeat sample;
- (ii) E. coli presence in a repeat sample; or
- (iii) Coliform presence in a set of repeat samples collected as a follow-up to a sample with fecal coliform or E. coli presence.

(d) Nonacute MCL. A nonacute MCL for coliform bacteria occurs when:

- (i) Systems taking less than forty routine samples during the month have more than one sample with coliform presence; or

(ii) Systems taking forty or more routine samples during the month have more than 5.0 percent with coliform presence.

(e) MCL compliance. The purveyor shall determine compliance with the coliform MCL for each month the system provides drinking water to the public. In determining MCL compliance, the purveyor shall:

- (i) Include:
 - (A) Routine samples;
 - (B) Repeat samples; and
 - (C) Samples collected under WAC 246-290-300 (2)(d).
- (ii) Not include:
 - (A) Samples invalidated under WAC 246-290-320 (2)(d); and
 - (B) Special purpose samples.

~~((4))~~ (3) Inorganic chemical and physical. The primary and secondary MCLs are listed in Table ~~((5))~~ 4 and ~~((6))~~ 5:

TABLE ~~((5))~~ 4

INORGANIC CHEMICAL CHARACTERISTICS

Substance	Primary MCLs (mg/L)
<u>Antimony (Sb)</u>	<u>0.006</u>
<u>Arsenic (As)</u>	<u>0.05</u>
<u>Asbestos</u>	<u>7 million fibers/liter (longer than 10 microns)</u>
<u>Barium (Ba)</u>	((1.0)) <u>2.0</u>
<u>Beryllium (Be)</u>	<u>0.004</u>
<u>Cadmium (Cd)</u>	((0.01)) <u>0.005</u>
<u>Chromium (Cr)</u>	((0.05)) <u>0.1</u>
<u>Copper (Cu)</u>	*
<u>Cyanide (HCN)</u>	<u>0.2</u>
<u>Fluoride (F)</u>	<u>4.0</u>
<u>Lead (Pb)</u>	*
<u>Mercury (Hg)</u>	<u>0.002</u>
<u>Nickel (Ni)</u>	<u>0.1</u>
<u>Nitrate (as N)</u>	<u>10.0</u>
<u>Nitrite (as N)</u>	<u>1.0</u>
<u>Selenium (Se)</u>	((0.01)) <u>0.05</u>
<u>Sodium (Na)</u>	*
<u>Thallium (Tl)</u>	<u>0.002</u>

Substance	Secondary MCLs (mg/L)
<u>Chloride (Cl)</u>	<u>250.0</u>
<u>Fluoride (F)</u>	<u>2.0</u>
<u>Iron (Fe)</u>	<u>0.3</u>
<u>Manganese (Mn)</u>	<u>0.05</u>
<u>Silver (Ag)</u>	<u>0.1</u>
<u>Sulfate (SO₄)</u>	<u>250.0</u>
<u>Zinc (Zn)</u>	<u>5.0</u>

~~((Note:))~~ * Although the state board of health has not established ~~((a))~~ MCLs for copper, lead, and sodium, there is enough public health significance connected with copper, lead, and

sodium levels to require inclusion in inorganic chemical and physical source monitoring.

TABLE ~~((6))~~ 5

PHYSICAL CHARACTERISTICS

Substance	Primary MCL
<u>Turbidity</u>	<u>1 NTU</u>
Substance	Secondary MCLs
<u>Color</u>	<u>15 Color Units</u>
<u>Hardness</u>	<u>None established</u>
<u>Specific Conductivity</u>	<u>700 umhos/cm</u>
<u>Total Dissolved Solids (TDS)</u>	<u>500 mg/L</u>

~~((5))~~ (4) Turbidity.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCL for turbidity is in effect for systems using surface water or GWI sources until the treatment technique requirements of Part 6 of chapter 246-290 WAC become effective as listed in Table 9, 12, 13, or 14, whichever is applicable.

(c) The MCLs for turbidity are:

(i) ~~((One))~~ 1.0 NTU, as determined by a monthly average of the daily turbidity, where the daily turbidity is defined as the average of the:

(A) Highest two hourly readings over a twenty-four hour period when continuous monitoring is used; or

(B) Daily grab samples taken the same hour every day when daily monitoring is used.

The department may increase the MCL to five NTUs if the purveyor can show the source is within a controlled watershed and the source meets the requirements under WAC 246-290-135.

(ii) ~~((Five))~~ 5.0 NTUs based on an average of the maximum daily turbidity for two consecutive days.

~~((6))~~ (5) Trihalomethanes.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCL for total trihalomethanes (TTHM) is 0.10 mg/L calculated on the basis of a running annual average of quarterly samples. The concentrations of each of the trihalomethane compounds (trichloromethane, dibromochloromethane, bromodichloromethane, and tribromomethane) are added together to determine the TTHM level.

(c) There is no MCL for maximum total trihalomethane potential (MTTP). When the MTTP value exceeds 0.10 mg/L, the purveyor shall follow up as described under WAC 246-290-320(5).

~~((7))~~ Pesticides:

~~((a))~~ The department shall consider standards under this subsection primary standards.

~~((b))~~ The MCLs for pesticides are:

~~((i))~~ Chlorinated hydrocarbons:

Substance	MCL (mg/L)
<u>Endrin</u>	<u>0.0002</u>
<u>Lindane</u>	<u>0.004</u>

PERMANENT

Methoxychlor	0.1
Toxaphene	0.005

(ii) Chlorophenoxy's:

Substance	MCL (mg/L)
2, 4-D	0.1
2, 4, 5 TP Silvex	0.01

~~(8))~~ (6) Radionuclides.

- (a) The department shall consider standards under this subsection primary standards.
- (b) The MCLs for radium-226, radium-228, and gross alpha particle radioactivity are:

TABLE 6

Substance	MCL (pCi/L)
Radium-226	3
Combined Radium-226 and Radium-228	5
Gross alpha particle activity (excluding uranium)	15

(c) The MCL for beta particle and photon radioactivity from man-made radionuclides is: The average annual concentration shall not produce an annual dose equivalent to the total body or any internal organ greater than four millirem/year.

The department shall assume compliance with the four millirem/year dose limitation if the average annual concentration for gross beta activity, tritium, and strontium-90 are less than 50 pCi/L, 20,000 pCi/L, and 8 pCi/L respectively. When both tritium and strontium-90 are present, the sum of their annual dose equivalents to bone marrow shall not exceed four millirem/year.

~~((9) Volatile))~~ (7) Organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs ~~((with MCLs are:~~

Substance	MCL (mg/L)
Benzene	.005
Carbon Tetrachloride	.005
1,2 Dichloroethane	.005
Trichloroethylene	.005
para Dichlorobenzene	.075
1,1 Dichloroethylene	.007
1,1,1 Trichloroethane	.200
Vinyl Chloride	.002

~~(e))~~ shall be as listed in 40 CFR 141-61(a).

(ii) The department shall determine compliance with this subsection based on ~~((the running annual average of results for each sample location. The purveyor is in violation of an MCL when:~~

~~(i) The running annual average for one location is greater than the MCL (sum of all sample results in one year divided by the number of samples taken > MCL); or~~

~~(ii) Any one sample result causes the running annual average to exceed the MCL))~~ compliance with 40 CFR 141.24(f).

~~((10))~~ (c) SOCs.

(i) MCLs for SOCs shall be as listed in 40 CFR 141.61(c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 CFR 141.24(h).

(8) Other chemicals.

(a) The state board of health shall determine maximum contaminant levels for any additional substances.

(b) Purveyors may be directed by the department to comply with state advisory levels (SALs) for contaminants that do not have a MCL established in chapter 246-290 WAC. SALs shall be:

(i) MCLs which have been promulgated by the EPA, but which have not yet been adopted by the state board of health; or

(ii) State board of health adopted levels for substances recommended by the department and not having an EPA established MCL. A listing of these may be found in the department document titled *Procedures and References for the Determination of State Advisory Levels for Drinking Water Contaminants* dated March 1991, which has been approved by the state board of health and is available on request.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-320 Follow-up action. (1) General.

(a) ~~((If water quality exceeds any MCLs listed under WAC 246-290-310))~~ When an MCL violation occurs, the purveyor shall ~~((notify the department and))~~ take follow-up action as described in this section.

(b) When a primary standard violation occurs, the purveyor shall:

(i) Notify the department in accordance with WAC 246-290-480;

(ii) Notify the consumers served by the system in accordance with WAC 246-290-330;

(iii) Determine the cause of the contamination; and

(iv) Take action as directed by the department.

(c) When a secondary standard violation occurs, the purveyor shall notify the department and take action as directed by the department.

(d) The department may require additional sampling for confirmation of results. A department guideline on confirmation sampling titled *Inorganic and Organic Monitoring Plans* is available on request.

(2) Bacteriological.

(a) When coliform bacteria are present in any sample and the sample is not invalidated under (d) of this subsection, the purveyor shall ensure the following actions are taken:

(i) The sample is analyzed for fecal coliform or E. coli. When a sample with a coliform presence is not analyzed for E. coli or fecal coliforms, the sample shall be considered as

PERMANENT

having a fecal coliform presence for MCL compliance purposes;

(ii) Repeat samples are collected in accordance with (b) of this subsection;

(iii) The department is notified in accordance with WAC 246-290-480; and

(iv) The cause of the coliform presence is determined and corrected.

(b) Repeat samples.

(i) The purveyor shall collect and submit for analysis a set of repeat samples for every sample in which the presence of coliforms is detected. A set of repeat coliform samples consists of:

(A) Four repeat samples for ((Group A)) systems collecting one routine coliform sample each month; or

(B) Three repeat samples for all ((Group A)) systems collecting more than one routine coliform sample each month(;

~~(C) Two repeat samples for Group B systems).~~

(ii) The purveyor shall collect repeat sample sets according to Table 7;

(iii) The purveyor shall collect one set of repeat samples for each sample with a coliform presence(;

~~as follows:~~

~~(A) For Group A systems).~~ All samples in a set of repeat samples shall be collected on the same day and submitted for analysis within twenty-four hours after notification by the laboratory of a coliform presence. If the purveyor can demonstrate to the satisfaction of the department, that logistical problems beyond the purveyor's control make analysis of the samples in the repeat sample set impractical because the time between sample collection and analysis will exceed thirty hours, then the purveyor shall collect the required set of repeat samples as directed by the department(;

~~(B) For Group B systems, as soon as possible after the notification by the laboratory of a sample with a coliform presence).~~

(iv) When repeat samples have coliform presence, the purveyor shall:

(A) Contact the department and collect a minimum of one additional set of repeat samples as directed by the department; or

(B) Collect one additional set of repeat samples for each sample where coliform presence was detected.

(v) The purveyor of a system providing water to consumers via a single service shall collect repeat samples from the same location as the sample with a coliform presence. The set of repeat samples shall be collected:

(A) On the same collection date; or

(B) Over consecutive days with one sample collected each day until the required samples in the set of repeat samples are collected.

(vi) If a sample with a coliform presence was collected from the first two or last two active services, the purveyor shall monitor as directed by the department;

(vii) The purveyor may change a previously submitted routine sample to a sample in a set of repeat samples when the purveyor:

(A) Collects the sample within five adjacent service connections of the location from which the initial sample with a coliform presence was collected;

(B) Collects the sample after the initial sample with a coliform presence was submitted for analysis;

(C) Collects the sample on the same day as other samples in the set of repeat samples, except under (b)(iii) of this subsection; and

(D) Notifies the department of the change.

(viii) The department may determine that sets of repeat samples specified under this subsection are not necessary during a month when a nonacute coliform MCL violation is determined for the system.

Table 7
REPEAT SAMPLE REQUIREMENTS

((SYSTEM-GROUP (i)) # OF ROUTINE SAMPLES COLLECTED EACH MONTH((ii))	# OF SAMPLES IN A SET OF REPEAT SAMPLES	LOCATIONS FOR REPEAT SAMPLES (COLLECT AT LEAST ONE SAMPLE PER SITE)
((GROUP-A (iii)) (routine-sample each-month))	4	<ul style="list-style-type: none"> • Site of previous sample with a coliform presence • Within 5 active services upstream of site of sample with a coliform presence • Within 5 active services downstream of site of sample with a coliform presence • At any other active service
((GROUP-A (i)) more than 1 (routine-sample each-month))	3	<ul style="list-style-type: none"> • Site of previous sample with a coliform presence • Within 5 active services upstream of site of sample with a coliform presence • Within 5 active services downstream of site of sample with a coliform presence
((GROUP-B	2	<ul style="list-style-type: none"> • Site of the previous sample with a coliform presence • From active service other than the site of the previous sample with a coliform presence

(c) Monitoring frequency following a coliform presence. ((Group A)) Systems having one or more coliform presence samples that were not invalidated during the previous month shall collect and submit for analysis the minimum number of samples shown in the last column of Table 2.

(i) The department may reduce the monitoring frequency requirement when one or more samples with a coliform presence were collected during the previous month, if the purveyor proves to the satisfaction of the department;

(A) The cause of the sample with a coliform presence; and

(B) The problem is corrected before the end of the next month the system provides water to the public.

(ii) If the department reduces this monitoring frequency requirement:

(A) The purveyor shall collect and submit at least the minimum number of samples required when no samples with a coliform presence were collected during the previous month; and

(B) The department shall make available a written description explaining:

(I) The specific cause of the coliform presence; and

(II) Action taken by the purveyor to correct the cause of coliform presence.

(d) Invalid samples.

(i) The department shall consider coliform samples with no coliform presence detected invalid when:

PERMANENT

(A) Multiple tube technique cultures are turbid without appropriate gas production;

(B) Presence-absence technique cultures are turbid in the absence of an acid reaction;

(C) There are confluent growth patterns or growth of TNTC (too numerous to count) colonies without a surface sheen using a membrane filter analytic technique; or

(D) There is excess debris in the sample.

(ii) The department may invalidate a coliform sample when:

(A) The analyzing laboratory establishes that improper sample analysis occurred;

(B) The department determines a domestic or nondistribution system problem is indicated by:

(I) All samples in the set of repeat samples collected at the same location as the original coliform presence sample also are coliform presence; and

(II) All other samples in the set of repeat samples are free of coliform.

(C) The department determines a coliform presence result is due to a circumstance or condition which does not reflect water quality in the distribution system. In this case, when the department invalidates a sample:

(I) The purveyor shall collect a set of repeat samples following the sample invalidation in accordance with Table 7; and

(II) The department's rationale for invalidating the sample shall be documented in writing and made available to the public. The documentation shall state the specific cause of the coliform presence, and what action the purveyor has taken, or will take.

(iii) When a coliform sample is determined invalid, the purveyor shall collect and submit for analysis:

(A) An additional coliform sample from the same location as each invalid sample within twenty-four hours of notification of the invalid sample; or

(B) Additional coliform samples as directed by the department.

(iv) When the department or laboratory invalidates a sample, the sample shall not count towards the purveyor's minimum coliform monitoring requirements.

(3) Inorganic chemical and physical (~~When an initial analysis of a substance exceeds the MCL, the purveyor shall:~~)

~~(a)) follow-up monitoring shall be conducted in accordance with the following:~~

~~(a) For nonnitrate/nitrite inorganic chemicals, 40 CFR 141.23 (a)(4), 141.23 (b)(8), 141.23 (c)(7), 141.23 (f)(1), 141.23(g), 141.23(m) and 141.23(n);~~

~~(b) For nitrate, ((immediately take one additional sample from the same sampling point. If the average of the two samples exceeds the MCL, a violation is confirmed)) 40 CFR 141.23 (a)(4), 141.23 (d)(2), 141.23 (d)(3), 141.23 (f)(2), 141.23(g), 141.23(m), 141.23(n), and 141.23(o); or~~

~~((b) For all other inorganic chemical and physical substances, collect three additional samples from the same sample point within thirty days. If the average of all four samples exceeds the MCL, a violation is confirmed)) (c) For nitrite, 40 CFR 141.23 (a)(4), 141.23 (e)(3), 141.23 (f)(2), and 141.23(g).~~

~~(4) Lead and copper follow-up monitoring shall be conducted in accordance with 40 CFR 141.85(d), 141.86~~

~~(d)(2), 141.86 (d)(3), 141.87(d) and 141.88(b) through 141.88(d).~~

~~(5) Turbidity.~~

~~(a) Purveyors using sources not subject to Part 6 of chapter 246-290 WAC and monitoring turbidity in accordance with WAC 246-290-300(4), shall notify the department as soon as possible, but in no case later than the end of the next business day, when:~~

~~(i) The turbidity is monitored continuously, and exceeds ((one)) 1.0 NTU for longer than one hour; or~~

~~(ii) The results of turbidity analysis of grab samples exceeds ((one)) 1.0 NTU, and a repeat sample taken within one hour also exceeds ((one)) 1.0 NTU.~~

~~(b) Purveyors monitoring turbidity in accordance with Part 6 of chapter 246-290 WAC shall provide follow-up in accordance with WAC 246-290-634.~~

~~((5)) (6) Trihalomethanes. When the average of all samples taken during any twelve-month period exceeds the MCL for total trihalomethanes, the violation is confirmed and the purveyor shall take corrective action as required by the department. When the maximum trihalomethane potential (MTTP) result is equal to or greater than 0.10 mg/L and the result is confirmed by a repeat sample, the purveyor shall monitor according to WAC 246-290-300(5) for one year or more.~~

~~((6) Volatile)) (7) Organic chemicals ((VOCs)). ((The purveyor shall be responsible for the following follow-up actions:~~

~~(a) After the purveyor's receipt of the first VOC analysis results from the laboratory, the purveyor shall provide notice to persons served by the system as described under WAC 246-290-330(5).~~

~~(b) When a List 1 VOC is verified at a concentration above the detection limit, the purveyor shall, at a minimum:~~

~~(i) Sample the source once every three months for at least three years; and~~

~~(ii) Make analysis results available to consumers within three months of receipt from the laboratory as described under WAC 246-290-330(5).~~

~~(c) When a List 1 VOC is verified at a concentration greater than a MCL, and the level will not cause the running annual average to exceed the MCL, the purveyor shall repeat sample the source as soon as possible. If a concentration greater than an MCL is confirmed, the purveyor shall:~~

~~(i) Notify the department within seven days of receipt of the repeat sample analysis results;~~

~~(ii) Provide consumer information in accordance with WAC 246-290-330 (5)(b);~~

~~(iii) Submit documentation to the department describing the water system's strategy for gathering and analyzing additional data and identify plans for keeping the public informed; and~~

~~(iv) Sample the source a minimum of once every three months for at least three years.~~

~~(d) When the running annual average of a List 1 VOC is greater than an MCL, or one sample analysis result causes the annual average to exceed an MCL, the purveyor shall:~~

~~(i) Notify the department within forty-eight hours of receipt of analysis results;~~

~~(ii) Notify the public as described under WAC 246-290-330, including mandatory health effects language.~~

(iii) ~~Submit an action plan to the department for approval addressing follow-up activities, including corrective action. The purveyor shall submit the action plan within four months of receipt of department notice that the annual average exceeds the MCL. The purveyor's action plan shall, at a minimum, contain a:~~

~~(A) Tabulation of VOC sample analysis results, including the location where VOCs were detected;~~

~~(B) Description of monitoring plans for system sources;~~

~~(C) Strategy for informing the public of monitoring results and investigations; and~~

~~(D) Description of short and long term plans to minimize exposure and/or eliminate the source of contamination.~~

~~(iv) Implement the action plan within one year of the department's approval. The department may require the purveyor's earlier compliance if necessary to eliminate an immediate health threat or may require a revision of the action plan based upon additional sample results. The department may extend the purveyor's period of compliance when the department determines:~~

~~(A) Substantial construction is required; and~~

~~(B) The purveyor has taken all appropriate measures to protect the health of consumers served by the public water system.~~

~~If the department grants the purveyor an extension, the purveyor shall issue a notice identifying the MCL exceeded and the amount by which the repeat sample analysis results exceeded the MCL. The purveyor shall include the notice in all bills mailed to affected customers until the department determines that the purveyor complies with the MCL.~~

~~(v) Sample the source a minimum of once every three months for at least three years:~~

~~(e) When a List 2 or List 3 VOC is verified at a concentration above the detection limit, the purveyor shall:~~

~~(i) Submit the sample analysis results to the department within seven days of receipt from the laboratory; and~~

~~(ii) Sample the source a minimum of once every three months for one year and then annually thereafter during the three-month period when the highest previous measurement occurred.~~

~~(f) If the department determines that a List 2 or List 3 VOC is verified at a level greater than a state advisory level (SAL), the department shall notify the purveyor in writing. The purveyor shall repeat sample the source as soon as possible after initial department notice that a SAL has been exceeded. The purveyor shall submit the analysis results to the department within seven days of receipt from the laboratory. If any repeat sample confirms that a SAL has been exceeded, the purveyor shall:~~

~~(i) Provide consumer information in accordance with WAC 246-290-330 (5)(b);~~

~~(ii) Sample the source a minimum of once every three months for at least three years; and~~

~~(iii) Submit documentation to the department listing VOC analysis results, describing the water systems' strategy for gathering and analyzing additional data, and identifying plans for keeping the public informed. The purveyor shall submit this information to the department within six months of the date of the first notice from the department that a SAL has been exceeded.~~

~~(g) The department may reduce the purveyor's monitoring requirement for a source detecting a List 1 VOC if,~~

~~after three years of quarterly monitoring, all analysis results are less than the MCL. The purveyor's reduced monitoring frequency shall be no less than one sample per year.~~

~~(h) The department may reduce the purveyor's monitoring requirement for a source detecting a List 2 or List 3 VOC if the source has been monitored annually for at least three years, and all analysis results are less than the SAL.~~

~~(i) In establishing SAL's for List 2 and List 3 VOCs, the department shall use the most recent edition of the department document titled *Procedures And References For Determination Of State Advisory Levels For Drinking Water Contaminants* which has been approved by the state board of health. Copies are available from the department upon request.~~

~~(j) When List 1, List 2 (exclusive of THMs), or List 3 VOCs are verified in well fields, the purveyor shall repeat sample individual wells within the well field.~~

~~(k) When the sum of all trihalomethanes detected exceeds 0.100 mg/L, the purveyor shall sample within three months for total trihalomethanes as required under WAC 246-290-300(5).~~

~~(l) The department may collect samples from a water system or may require that specified quality assurance techniques be used to collect samples.~~

~~(7)) Follow-up monitoring shall be conducted in accordance with the following:~~

~~(a) For VOCs, 40 CFR 141.24 (f)(11) through 141.24 (f)(15); or~~

~~(b) For SOCs, 40 CFR 141.24(b), 141.24(c) and 141.24 (h)(7) through 141.24 (h)(11).~~

~~(8) Unregulated inorganic and organic chemicals.~~

~~(a) Follow-up monitoring shall be conducted in accordance with 40 CFR 141.40 (n)(8) and 141.40 (n)(9).~~

~~(b) When an unregulated chemical is verified at a concentration above the detection limit, the purveyor shall:~~

~~(i) Submit the sample analysis results to the department within seven days of receipt from the laboratory; and~~

~~(ii) Sample the source a minimum of once every three months for one year and then annually thereafter during the three-month period when the highest previous measurement occurred.~~

~~(c) If the department determines that an unregulated chemical is verified at a level greater than a SAL, the department shall notify the purveyor in writing. The purveyor shall repeat sample the source as soon as possible after initial department notice that a SAL has been exceeded. The purveyor shall submit the analysis results to the department within seven days of receipt from the laboratory. If any repeat sample confirms that a SAL has been exceeded, the purveyor shall:~~

~~(i) Provide consumer information in accordance with WAC 246-290-330 (5)(b);~~

~~(ii) Investigate the cause of the contamination; and~~

~~(iii) Take follow-up or corrective action as required by the department.~~

~~(d) The department may reduce the purveyor's monitoring requirement for a source detecting an unregulated chemical if the source has been monitored annually for at least three years, and all analysis results are less than the SAL.~~

(9) The department shall determine the purveyor's follow-up action when a substance not included in this chapter is detected.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-330 Public notification. (1) Required notification.

~~((A))~~ The purveyor ~~((of a Group A water system))~~ shall notify the water system users when the system:

~~((i))~~ ~~Violates~~ (a) Has a MCL violation of a primary standard as described under WAC 246-290-310;

~~((ii))~~ (b) Fails to comply with:

~~((A))~~ (i) Treatment technique requirements under Part 6 of chapter 246-290 WAC;

~~((B))~~ (ii) Monitoring requirements under WAC 246-290-300, 246-290-664, 246-290-674, or 246-290-694;

~~((C))~~ (iii) Analytical requirements of WAC 246-290-638 or chapter 246-390 WAC;

~~((D))~~ (iv) A departmental order; or

~~((E))~~ (v) A variance or exemption schedule prescribed by the state board of health.

~~((iii))~~ (c) Is identified as a source of waterborne disease outbreak as determined by the department;

~~((iv))~~ (d) Is issued a category red operating permit;

~~((v))~~ (e) Is issued a departmental order; or

~~((vi))~~ (f) Is operating under a variance or exemption.

~~((b))~~ The purveyor of a **Group B** water system may be required to notify water system users when directed by the department.)

(2) Content. Notices shall provide:

(a) A clear, concise, and simple explanation of the violation;

(b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;

(c) Mandatory health effects information in accordance with subsection (4) of this section;

(d) A list of steps the purveyor has taken or is planning to take to remedy the situation;

(e) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;

~~(and)~~

(f) The purveyor's name and phone number; and

(g) When appropriate, notices shall be multilingual.

The purveyor may provide additional information to further explain the situation.

(3) Distribution.

(a) Purveyors of **community and NTNC** systems ~~((in))~~ with violations of a primary MCL, treatment technique or variance or exemption schedule shall provide:

(i) Newspaper notice to water system users as defined in (e) of this subsection, within fourteen days of violation;

(ii) Direct mail notice or hand delivery to all consumers served by the system within forty-five days of the violation. The department may waive the purveyor's mail or hand delivery if the violation is corrected within forty-five days. The waiver shall be in writing and made within the forty-five day period;

(iii) Notice to radio and television stations serving the area within seventy-two hours of violation of an acute coliform MCL under WAC 246-290-310 (3)(c), a nitrate

MCL under WAC 246-290-310(4), occurrence of a waterborne disease outbreak or other acute violation as determined by the department; and

(iv) Repeat mail or hand delivery every three months until the violation is corrected.

(b) Purveyors of **community and NTNC** systems shall provide newspaper notice as defined in (e) of this subsection, to water system users within three months of the following:

(i) Violation of a monitoring requirement or testing procedure;

(ii) Receipt of a departmental order;

(iii) Receipt of a category red operating permit; or

(iv) Granting of a variance or exemption.

Purveyors shall also provide repeat notice by mail or hand delivery to all consumers served by the system every three months until the situation is corrected or for as long as the variance or exemption remains in effect.

(c) Purveyors of ~~((NTNC and))~~ **TNC** systems shall post a notice within fourteen days of the following:

(i) Violation of a primary MCL;

(ii) Violation of a treatment technique requirement; or

(iii) Violation of a variance or exemption schedule. If the violation is acute, the department shall require posting within seventy-two hours.

(d) Purveyors of ~~((NTNC and))~~ **TNC** systems shall post a notice within three months of the:

(i) Violation of a monitoring requirement or testing procedure;

(ii) Receipt of a category red operating permit; or

(iii) Granting of a variance or exemption.

(e) Newspaper notice, as used in this section, means publication in a daily newspaper of general circulation or in a weekly newspaper of general circulation if a daily newspaper does not serve the area. The purveyor may substitute a community or homeowner's association newsletter or similar periodical publication if the newsletter reaches all affected consumers within the specified time.

(f) The purveyor shall substitute a posted notice in the absence of a newspaper of general circulation or homeowner's association newsletter or similar periodical publication. The purveyor shall post the notice within the timeframe specified in this subsection.

(g) The purveyor shall place posted notices in conspicuous locations and present the notices in a manner making them easy to read. Notices shall remain posted until the violation is corrected or for as long as the variance or exemption remains in effect. ~~((When appropriate, notices shall be multi-lingual.))~~

(h) The purveyor of a **community or NTNC** water system shall give a copy of the most recent public notice for all outstanding violations to all new billing units or new hookups before or at the time water service begins.

(i) The purveyor shall provide the department with a copy of the public notification at the time the purveyor notifies the public.

(4) Mandatory language.

(a) The purveyor shall provide specific health effects language in the notice when a violation involves:

(i) A violation of a primary ~~((VOC))~~ organic or inorganic chemical or physical MCL;

(ii) A ~~((primary or))~~ violation of a secondary fluoride MCL;

- (iii) A violation of an acute coliform MCL;
 - (iv) A violation of a nonacute coliform MCL;
 - (v) A treatment technique requirement ((under Part 6 of chapter 246-290 WAC));
 - (vi) Granting or continuation of exemption or variance;
- or
- (vii) Failure to comply with a variance or exemption schedule.

(b) The purveyor shall provide specific mandatory language in its notification when the purveyor receives a category red operating permit.

(c) Required specific language is contained in the department guideline titled *Mandatory Language For Drinking Water Public Notification* and dated December 1993.

(5) ~~((VOC notification))~~ Procedure for notification of organic chemical and unregulated chemical sample results.

(a) Availability of results. After receipt of the first analysis results, the purveyor of a **community** or NTNC water system shall notify persons served by the system of the availability of the results and shall supply the name and telephone number of a contact person. Purveyors with surface water sources shall include a statement that additional monitoring will be conducted for three more quarters, with results available on request.

(i) The purveyor shall initiate notification within three months of the purveyors receipt of the first ~~((VOC))~~ analysis results. This notification is only required one time.

(ii) Notification shall occur by any of the following methods:

(A) Inclusion in the first set of water bills issued after receipt of the results;

(B) Newspaper notice which shall run at least one day each month for three consecutive months;

(C) Direct mail;

(D) Posting for at least one week if an NTNC system;

or

(E) Any other method approved by the department.

(iii) Within three months of receipt of analysis results, purveyors selling water to other public water systems shall provide copies of the analysis results to the purchasing system.

(iv) Within thirty days of receipt of analysis results, purveyors purchasing water shall make results available to their customers. The purveyor's notification shall occur by the method outlined under (a)(i) of this subsection.

(b) Consumer information.

(i) The purveyor shall provide consumer information within twenty-one days of receipt of confirmation sample results when:

(A) A ~~((List 1 VOC))~~ regulated chemical is confirmed at a concentration greater than a MCL, and the level will not cause the running annual average to exceed the MCL; or

(B) The department determines that ~~((a List 2 or List 3 VOC))~~ an unregulated chemical is confirmed at a level greater than a SAL.

(ii) Consumer information shall include:

(A) Name and level of ~~((VOC))~~ chemical detected;

(B) Location where the ~~((VOC))~~ chemical was detected;

(C) Any health effects that the ~~((VOC))~~ chemical could cause at its present concentration;

(D) Plans for follow-up activities; and

(E) Phone number to call for further information.

(iii) Consumer information shall be distributed by any of the following methods:

(A) Notice placed in the major newspaper in the affected area;

(B) Direct mail to customers;

(C) Posting for at least one week if an NTNC system;

or

(D) Any other method approved by the department.

(6) Fluoride notification procedure.

When a primary or secondary MCL violation occurs or a variance or exemption is issued or a variance or exemption schedule is violated, the purveyor of a **community** water system shall send notice, including mandatory language, to:

(a) The department annually;

(b) Water system users annually; and

(c) New billing units added while the violation exists.

(7) When circumstances dictate the purveyor give a broader or more immediate notice to protect public health, the department may require the purveyor's notification by whatever means necessary.

(8) When the state board of health grants a public water system a waiver, the purveyor shall notify customers and new billing units or new hookups before water service begins. The purveyor shall provide a notice annually and send a copy to the department.

(9) The department may give notice to the water system users as required by this section on behalf of the water purveyor. However, the purveyor remains responsible for ensuring the department's requirements are met.

AMENDATORY SECTION (Amending Order 124B, filed 12/27/90, effective 1/31/91)

WAC 246-290-410 Small water system management program. (1) The purpose of a small water system management program is to assure the water system:

(a) Is properly and reliably managed and operated, and

(b) Continues to exist as a functional and viable entity.

(2) A small water system management program shall be developed and implemented for all systems not required to complete a water system plan as described under WAC 248-54-065.

(3) The department shall have the authority to require submission of this program for review and comment when:

(a) A new water system is proposed;

(b) A new project is proposed for an existing system;

(c) An existing system has problems associated with inadequate or improper management or operations;

(d) Requested by the department for an existing system not having approved engineering documents, such as, or similar to, those described under WAC 248-54-086 and 248-54-096; or

(e) There is a change in ownership of the system.

(4) ~~((A))~~ Department guidelines titled *Planning Handbook* ~~((is))~~ and *"The Washington State Wellhead Protection Program"* are available to assist the purveyor in establishing the level of detail and content of the management program. Content and detail shall be consistent with the size, complexity, past performance, and use of the public water system. General content topics shall include, but not be limited to, the following elements:

- (a) Ownership and decision-making issues;
- (b) Financial (~~(capability))~~ viability; (~~and~~);
- (c) Operations;
- (d) Source protection, including a watershed control program or wellhead protection program when applicable under WAC 246-290-135; and
- (e) Conservation.

(5) The department may require changes be made to a small water system management program if necessary to effectively accomplish the program's purpose.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-440 Operations. (1) The purveyor shall ensure that the system is operated:

(a) In accordance with the operations program as established in the approved water system plan required under WAC 246-290-100; and

(b) In accordance with good operations procedures such as those available in texts, handbooks, and manuals available from the following sources:

(i) American Water Works Association (AWWA), 666 West Quincy Avenue, Denver, Colorado 80235;

(ii) American Society of Civil Engineers (ASCE), 345 East 47th Street, New York, New York 10017-2398;

(iii) Ontario Ministry of the Environment, 135 St. Clair Avenue West, Toronto, Ontario M4V1B5, Canada;

(iv) The Chlorine Institute, 2001 "L" Street NW, Washington, D.C. 20036;

(v) California State University, 600 "J" Street, Sacramento, California 95819;

(vi) Health Research Inc., Health Education Services Division, P.O. Box 7126, Albany, New York 12224; and

(vii) Any other standards acceptable to the department.

(2) The purveyor shall ensure the development and implementation of an emergency response plan as part of the operations program pursuant to WAC 246-290-100. The emergency response plan shall include:

(a) General procedures for routine or major emergencies within the water system; and

(b) A vulnerability analysis and a contingency plan for facilities becoming inoperable in a major emergency.

The emergency response plan component of the operations program shall be maintained in such a manner as to be readily usable by personnel of the water system responsible for responding to emergencies.

(3) The purveyor shall not establish nor maintain a bypass to divert water around any feature of a treatment process, except by written approval from the department.

~~((3))~~ (4) The purveyor shall take preventive or corrective action as directed by the department when results of an inspection conducted by the department indicate conditions which are currently or may become a detriment to system operation.

(5) The purveyor of a system using ground water and required to disinfect, shall meet the following disinfection requirements, unless otherwise directed by the department:

(a) Minimum contact time at a point at or before the first customer of:

(i) Thirty minutes if 0.2 mg/L free chlorine residual is maintained, or

(ii) Ten minutes if 0.6 mg/L free chlorine residual is maintained.

(b) Detectable residual disinfectant concentration in all active parts of the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide;

(c) Water in the distribution system with an HPC level less than or equal to 500/mL is considered to have a detectable residual disinfectant concentration.

~~((4))~~ (6) The department may require the purveyor to provide longer contact times, higher chlorine residuals, or additional treatment to protect the health of consumers served by the public water system.

~~((5))~~ (7) The purveyor of a system using surface water or GWI shall meet disinfection requirements specified in Part 6 of chapter 246-290 WAC.

~~((6))~~ (8) The purveyor of a system providing disinfection shall monitor residual disinfectant (~~(residual)~~) concentration at representative points in the system on a daily basis, in accordance with WAC 246-290-674 or as approved by the department. The analyses shall be conducted in accordance with "standard methods." To assure adequate monitoring of chlorine residual, the department may require the use of continuous chlorine residual analyzers and recorders.

~~((7))~~ (9) A certified operator is required under chapter 70.119 RCW and chapter 246-292 WAC for ~~(Group A)~~ public water systems:

(a) Serving one hundred services or more in use at any one time; or

(b) Using a surface water or GWI source.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-480 Recordkeeping and reporting.

(1) Records. The purveyor shall keep the following records of operation and water quality analyses:

(a) Bacteriological and turbidity analysis results shall be kept for five years. Chemical analysis results shall be kept for as long as the system is in operation. Records of daily source meter readings shall be kept for ten years. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the operator in responsible charge of the water system or his or her representative. ~~(Group A)~~ Systems shall keep these records available for inspection by the department and shall send the records to the department if requested. Actual laboratory reports may be kept or data may be transferred to tabular summaries, provided the following information is included:

(i) The date, place, and time of sampling, and the name of the person collecting the sample;

(ii) Identification of the sample type (routine distribution system sample, repeat sample, source or finished water sample, or other special purpose sample);

(iii) Date of analysis;

(iv) Laboratory and person responsible for performing analysis;

(v) The analytical method used; and

(vi) The results of the analysis.

(b) Records of action taken by the system to correct violations of primary drinking water standards. For each violation, copies of public notifications shall be kept for three years after the last corrective action taken.

(c) Copies of any written reports, summaries, or communications, relating to CSEs of the system conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the CSE involved.

(d) Copies of project reports, construction documents, and related drawings, inspection reports and approvals shall be kept for the life of the facility.

(e) Where applicable, daily records including:

(i) Chlorine residual;

(ii) Fluoride level;

(iii) Water treatment plant performance including, but not limited to:

(A) Type of chemicals used and quantity,

(B) Amount of water treated, and

(C) Results of analyses.

(iv) Turbidity;

(v) Source meter readings; and

(vi) Other information as specified by the department.

(2) Reporting.

(a) Unless otherwise specified in this chapter, the purveyor shall report to the department within forty-eight hours:

(i) The failure to comply with the primary standards or treatment technique requirements under this chapter;

(ii) The failure to comply with the monitoring requirements under this chapter; and

(iii) The violation of a primary MCL.

(b) The purveyor shall submit to the department reports required by this chapter, including tests, measurements, and analytic reports. Monthly reports are due before the tenth day of the following month, unless otherwise specified in this chapter.

(c) Daily source meter readings shall be made available to the department on request.

(d) Water facilities inventory and report form (WFI).

~~(i) ((Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system;~~

~~(ii)) Purveyors of community systems shall submit an annual WFI update to the department;~~

~~((iii)) (ii) Purveyors of NTNC((;)) and TNC((; and Group B)) systems shall submit an updated WFI to the department as requested; ((and))~~

(iii) Purveyors shall submit an updated WFI to the department within thirty days of any change in name, category, ownership, or responsibility for management of the water system; and

(iv) At a minimum the completed WFI shall provide the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system.

(e) Total annual water production. Purveyors ~~((of Group A systems))~~ shall report total annual water production for each source to the department upon request.

(f) Bacteriological.

(i) The purveyor shall notify the department of the presence of:

(A) Coliform in a sample, within ten days of notification by the laboratory; and

(B) Fecal coliform or E. coli in a sample, by the end of the business day in which the purveyor is notified by the laboratory. If the purveyor is notified of the results after normal close of business, then the purveyor shall notify the department before the end of the next business day.

(ii) When a coliform MCL violation is determined, the purveyor shall:

(A) Notify the department within twenty-four hours of determining acute coliform MCL violations;

(B) Notify the department before the end of the next business day when a nonacute coliform MCL is determined; and

(C) Notify water system users in accordance with WAC 246-290-330.

(iii) When a monitoring violation occurs, including invalid or expired CSEs, the purveyor shall:

(A) Notify the department of the violation within ten days; and

(B) Notify water system users in accordance with WAC 246-290-330.

~~((f) VOCs;)) (g) Systems monitoring for unregulated VOCs in accordance with WAC 246-290-300(~~((8)(a) Table 3 List 2 and 3)) (8)(b)~~, shall send a copy of the results of such monitoring and any public notice to the department within thirty days of receipt of analytical results.~~

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-632 Treatment technique violations.

(1) A treatment technique violation shall be considered a violation of a primary drinking water standard and in the case of an unfiltered system, may result in the purveyor of an unfiltered system being required to install filtration.

(2) A treatment technique violation occurs when a system using a surface or GWI source is identified by the department as the source of a waterborne disease outbreak or any of the following occur as applicable:

(a) The purveyor providing filtration fails to meet one or more of the following requirements ~~((by))~~ on June 29, 1993, or thereafter:

(i) Filtration treatment in accordance with WAC 246-290-660; or

(ii) Disinfection treatment in accordance with WAC 246-290-662.

(b) The purveyor required to install filtration:

(i) Fails to meet the interim disinfection requirements in accordance with WAC 246-290-672 or as otherwise directed by the department; or

(ii) Fails to install filtration or develop an alternate source by the applicable dates specified in WAC 246-290-670.

(c) The purveyor of an unfiltered surface water or GWI source:

(i) Delivers water with a turbidity level exceeding ~~((5))~~ 5.0 NTU; or

(ii) Fails to meet one or more of the disinfection requirements in accordance with WAC 246-290-692 after the dates specified in WAC 246-290-686.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-654 Treatment criteria for filtered systems. (1) The purveyor shall operate filters such that maximum flow rates do not exceed those specified in Table 10. The purveyor may operate filters at higher flow rates, if the purveyor demonstrates to the department's satisfaction that filtration at the higher rate consistently achieves at least 99 percent (2 log) removal of *Giardia lamblia* cysts and meets the turbidity performance requirements of Table 11.

**Table 10
FILTRATION OPERATION CRITERIA**

FILTRATION TECHNOLOGY/MEDIA	MAXIMUM FILTRATION RATE (gpm/ft ²)
Conventional, Direct and In-Line	
Gravity Filters with Single Media	3
Gravity Filters with Deep Bed, Dual or Mixed Media	6
Pressure Filters with Single Media	2
Pressure Filters with Deep Bed, Dual or Mixed Media	3
Slow Sand	0.1
Distonaceous Earth	1.0

(2) The purveyor using conventional, direct or in-line filtration shall ensure that effective coagulation is in use at all times the water treatment facility produces water served to the public.

(3) The purveyor using conventional, direct, or in-line filtration shall demonstrate treatment effectiveness for *Giardia lamblia* cyst removal by one of the following methods:

(a) Turbidity reduction method where source and filtered water turbidity measurements are made in accordance with WAC 246-290-664(2) and (3) respectively:

(i) When source turbidity is greater than or equal to 2.5 NTU, the purveyor shall achieve the turbidity performance requirements specified in WAC 246-290-660(1);

(ii) When source turbidity is less than 2.5 NTU, the purveyor shall achieve:

(A) An 80% reduction in source turbidity based on an average of the daily turbidity reductions measured in a calendar month; or

(B) A filtered water turbidity less than or equal to 0.1 NTU;

(b) Particle counting method. The purveyor shall:

(i) Use a particle counting protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of *Giardia lamblia* cyst-sized particles as applicable;

(A) 2.5 log reduction for systems using conventional filtration;

(B) 2.0 log reduction for systems using direct or in-line filtration;

(c) Microscopic particulate analysis method. The purveyor shall:

(i) Use a protocol acceptable to the department; and

(ii) Demonstrate at a frequency acceptable to the department at least the following log reduction of *Giardia lamblia* cysts and/or *Giardia lamblia* cyst surrogate indicators as applicable;

(A) 2.5 log reduction for systems using conventional filtration; and

(B) 2.0 log reduction for systems using direct or in-line filtration.

(d) Other methods acceptable to the department.

(4) The purveyor shall ensure continuous disinfection of all water delivered to the public and shall:

(a) Maintain an adequate supply of disinfection chemicals and keep back-up system components and spare parts on hand;

(b) Develop, maintain, and post at the water treatment facility a plan detailing:

(i) How water delivered to the public will be continuously and adequately disinfected; and

(ii) The elements of an emergency notification plan to be implemented whenever the residual disinfectant ((residual) concentration) at entry to distribution falls below 0.2 mg/L for more than one hour.

(c) Implement such plan during an emergency affecting disinfection.

(5) Operations plan.

(a) For each water treatment facility treating a surface or GWI source, the purveyor shall develop an operations plan and make it available to the department for review upon request.

(b) The plan shall be submitted to the department as an addendum to the purveyor's water system plan (WAC 246-290-100) or small water system management program (WAC 246-290-410).

(c) The plan shall detail how the purveyor will produce optimal filtered water quality at all times the water treatment facility produces water to be served to the public.

(d) The purveyor shall operate the water treatment facility in accordance with the operations plan.

(e) The operations plan shall include, but not be limited to, a description of:

(i) For conventional, direct or in-line filtration, procedures used to determine and maintain optimized coagulation as demonstrated by meeting the requirements of WAC 246-290-654(3);

(ii) Procedures used to determine chemical dose rates;

(iii) How and when each unit process is operated;

(iv) Unit process equipment maintenance program;

(v) Treatment plant performance monitoring program;

(vi) Laboratory procedures;

(vii) Records;

(viii) Reliability features; and

(ix) Response plans for water treatment facility emergencies, including disinfection failure and watershed emergencies.

(f) The purveyor shall ensure the operations plan is:

(i) Readily available at the water treatment facility for use by operators and for department inspection;

(ii) Consistent with department guidelines for operations procedures such as those described in the *DOH SWTR Guidance Manual* and *Planning Handbook*; and

(iii) Updated as needed to reflect current water treatment facility operations.

PERMANENT

(6) Pressure filters. Purveyors using pressure filters shall:

- (a) Inspect and evaluate the filters, at least every six months, for conditions that would reduce their effectiveness in removing *Giardia lamblia* cysts;
- (b) Maintain, and make available for department review, a written record of pressure filter inspections; and
- (c) Be prepared to conduct filter inspections in the presence of a department representative, if requested.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-660 Filtration. (1) Turbidity performance requirements.

- (a) The purveyor shall ensure that the turbidity level of representative filtered water samples:
 - (i) Complies with the performance standards in Table 11; and
 - (ii) Never exceeds 5.0 NTU.

**Table 11
TURBIDITY PERFORMANCE REQUIREMENTS**

Filtration Technology	Filtered water turbidity (in NTUs) shall be less than or equal to this value in at least 95% of the measurements made each calendar month
Conventional, Direct and In-line	0.5
Slow Sand	1.0
Diatomaceous Earth	1.0
Alternate Technology	1.0

(b) The department may allow the turbidity of filtered water from a system using slow sand filtration to exceed 1.0 NTU, but never 5.0 NTU, if the system demonstrates to the department's satisfaction that the higher turbidity level will not endanger the health of consumers served by the system. As a condition of being allowed to produce filtered water with a turbidity exceeding 1.0 NTU, the purveyor may be required to monitor one or more parameters in addition to the parameters specified under WAC 246-290-664. The Department shall notify the purveyor of the type and frequency of monitoring to be conducted.

(2) *Giardia lamblia* and virus removal credit.

(a) The department shall notify the purveyor of the removal credit granted for the system's filtration process. The department shall specify removal credit for:

- (i) Existing filtration facilities based on periodic evaluations of performance and operation; and
 - (ii) New or modified filtration facilities based on results of pilot plant studies or full scale operation.
- (b) Conventional, direct, and in-line filtration.
- (i) The removal credit the department may grant to a system using conventional, direct, or in-line filtration and demonstrating effective treatment is as follows:

Filtration Technology	Percent Removal Credit (log)	
	<i>Giardia</i>	Virus
Conventional	99.7 (2.5)	99 (20)
Direct and in-line	99 (2.0)	90 (10)

(ii) A system using conventional, direct, or in-line filtration shall be considered to provide effective treatment, if the purveyor demonstrates to the satisfaction of the department that the system meets the:

- (A) Turbidity performance requirements under subsection (1) of this section; and
 - (B) Operations requirements of WAC 246-290-654.
- (iii) The department may grant a higher level of *Giardia lamblia* and virus removal credit than listed under (b)(i) of this subsection, if the purveyor demonstrates to the department's satisfaction that the higher level can be consistently achieved.

(iv) As a condition of maintaining the maximum removal credit, purveyors may be required to periodically monitor one or more parameters not routinely monitored under WAC 246-290-664. The department shall notify the purveyor of the type and frequency of monitoring to be conducted.

- (v) The department shall not grant removal credit to a system using conventional, direct, or in-line filtration which:
 - (A) Fails to meet the minimum turbidity performance requirements under subsection (1) of this section;
 - (B) Fails to meet the operating requirements under WAC 246-290-654.

~~((vi) The purveyor granted no removal credit shall:~~

- ~~(A) Provide treatment in accordance with WAC 246-290-662 (2)(e); and~~
- ~~(B) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:~~
 - ~~(I) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and~~
 - ~~(II) Identify the proposed schedule for implementation.))~~

(c) Slow sand filtration.

The department may grant a system using slow sand filtration 99 percent (2 log) *Giardia lamblia* cyst removal credit and ~~((90))~~ 99 percent ~~((+))~~ 2 log virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(d) Diatomaceous earth filtration.

The department may grant a system using diatomaceous earth filtration 99 percent (2 log) *Giardia lamblia* cyst removal credit and 90 percent (1 log) virus removal credit, if the system meets the department design requirements under WAC 246-290-676 and meets the minimum turbidity performance requirements in subsection (1) of this section.

(e) Alternate filtration technology.

The department shall grant, on a case-by-case basis, *Giardia lamblia* cyst and virus removal credit for systems using alternate filtration technology based on results of product testing acceptable to the department.

(f) The purveyor granted no removal credit shall:

- (i) Provide treatment in accordance with WAC 246-290-662 (2)(e); and
- (ii) Within ninety days of department notification regarding removal credit, submit an action plan to the department for review and approval. The plan shall:
 - (A) Detail how the purveyor plans to comply with the turbidity performance requirements in subsection (1) of this section and operating requirements of WAC 246-290-654; and
 - (B) Identify the proposed schedule for implementation.

PERMANENT

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)**WAC 246-290-662 Disinfection for filtered systems.**

(1) General requirements.

(a) The purveyor shall provide continuous disinfection to ensure that filtration and disinfection together achieve, at all times the system serves water to the public, at least the following:

(i) 99.9 percent (3 log) inactivation and removal of *Giardia lamblia* cysts; and

(ii) 99.99 percent (4 log) inactivation and/or removal of viruses.

(b) Where sources receive sewage discharges and/or agricultural runoff, purveyors may be required to provide greater levels of removal and inactivation of *Giardia lamblia* cysts and viruses to protect the health of consumers served by the system.

(c) Regardless of the removal credit granted for filtration, purveyors shall, at a minimum, provide continuous disinfection to achieve at least 68 percent (0.5 log) inactivation of *Giardia lamblia* cysts and 99 percent (2 log) inactivation of viruses.

(2) Establishing the level of inactivation.

(a) The department shall establish the level of disinfection (log inactivation) to be provided by the purveyor.

(b) The required level of inactivation shall be based on source quality and expected levels of *Giardia lamblia* cyst and virus removal achieved by the system's filtration process.

(c) Based on period review, the department may adjust, as necessary, the level of disinfection the purveyor shall provide to protect the health of consumers served by the system.

(d) The purveyor using alternate filtration technology shall ensure that disinfection achieves at least the following at all times water is served to the public:

(i) 90 percent (1 log) inactivation of *Giardia lamblia* cysts when granted 99 percent (2 log) *Giardia lamblia* cyst removal credit, or 99.9 percent (3 log) inactivation of cysts when granted less than 99 percent (2 log) *Giardia lamblia* cyst removal credit; and

(ii) 99.9 percent (3 log) inactivation of viruses when granted 90 percent (1 log) virus removal credit, or 99.99 percent (4 log) inactivation of viruses when granted no virus removal credit.

(e) Systems granted no *Giardia lamblia* cyst removal credit.

(i) Unless directed otherwise by the department, the purveyor of a system granted no *Giardia lamblia* cyst removal credit shall provide interim disinfection:

(A) To ensure compliance with the monthly coliform MCL under WAC 246-290-310;

(B) Achieve at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts; and

(C) Maintain a detectable residual disinfectant concentration, or an HPC level less than 500/ml, within the distribution system in accordance with subsection ~~((5))~~ (6) of this section.

(ii) The purveyor shall comply with the interim disinfection requirements until the system can demonstrate to the department's satisfaction that it complies with the operating

requirements and turbidity performance requirements under WAC 246-290-654 and 246-290-660(1), respectively.

(3) Determining the level of inactivation.

(a) Unless the department has approved a reduced CT monitoring schedule for the system, each day the system serves water to the public, the purveyor, using procedures and CT values acceptable to the department such as those presented in the *DOH SWTR Guidance Manual*, shall determine:

(i) CTcalc values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department.

(b) The department may allow a purveyor to determine the level of inactivation using lower CT values than those specified in (a) of this subsection, provided the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts and viruses can be achieved.

(4) Determining compliance with the required level of inactivation.

(a) A purveyor shall be considered in compliance with the inactivation requirement when a total inactivation ratio equal to or greater than ~~((one))~~ 1.0 is achieved.

(b) Failure to provide the required level of inactivation on more than one day in any calendar month shall be considered a treatment technique violation.

(5) ~~((Disinfectant))~~ Residual disinfectant concentration entering the distribution system.

(a) The purveyor shall ensure that all water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public; and

(b) Failure to provide a 0.2 mg/L residual at entry to distribution for more than ~~((one))~~ four hours on any day shall be considered a treatment technique violation.

(6) ~~((Disinfectant))~~ Residual(s) disinfectant concentration within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least 95 percent of the samples taken each calendar month.

(b) Water in the distribution system with an HPC less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)**WAC 246-290-664 Monitoring for filtered systems.**

(1) Source coliform monitoring.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are:

(i) Collected before the first point of disinfectant application and before coagulant chemical addition; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) At a minimum, the purveyor shall ensure source samples are collected for fecal coliform analysis at a

PERMANENT

frequency equal to 10 percent of the number of routine coliform samples collected within the distribution system each month under WAC 246-290-300, or once per calendar month, whichever is greater up to a maximum of one sample per day.

(2) Source turbidity monitoring.

(a) The purveyor using conventional, direct, or in-line filtration shall measure source turbidity at least once per day on a representative sample collected before disinfection and coagulant addition.

(b) Grab sampling or continuous turbidity monitoring and recording may be used to meet the requirement specified in (a) of this subsection.

(c) Purveyors using continuous turbidity monitoring shall record continuous turbidity measurements at equal intervals, at least every four hours, in accordance with a department-approved sampling schedule.

(3) Filtered water turbidity monitoring.

(a) The purveyor shall ~~((continuously monitor and record turbidity))~~:

(i) Continuously monitor turbidity on representative samples of the system's combined filter effluent, prior to clearwell storage; ~~((and))~~

(ii) Record continuous turbidity measurements at equal intervals, at least every four hours, in accordance with a department-approved sampling schedule; and

(iii) Conduct monitoring in accordance with the analytical techniques under WAC 246-290-638.

(b) Purveyors using slow sand filtration or an alternate filtration technology may reduce filtered water turbidity monitoring to one grab sample per day with departmental approval. Reduced turbidity monitoring shall be allowed only where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers served by the water system.

(4) Monitoring the level of inactivation and removal.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation and removal of *Giardia lamblia* cysts and viruses achieved.

(b) The purveyor shall determine the total level of inactivation and removal based on:

(i) *Giardia lamblia* cyst and virus removal credit granted by the department for filtration; and

(ii) Level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection.

(c) At least once per day, purveyors shall monitor the following to determine the level of inactivation achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(d) Each day during peak hourly flow (based on historical information), the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point shall be located before or at the first customer.

(e) The department may reduce CT monitoring requirements for purveyors which demonstrate to the department's satisfaction that the required levels of inactivation are consistently exceeded. Reduced CT monitoring shall only be allowed where the purveyor demonstrates to the department's satisfaction that a reduction in monitoring will not endanger the health of consumers.

(5) Monitoring the residual disinfectant ((residual)) concentration entering the distribution system.

(a) Systems serving more than thirty-three hundred (>3300) people per month.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less (< 3300) people per month.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) Purveyors of **community** systems choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the ~~((disinfectant residual))~~ grab samples at peak hourly flow; and

(C) The remaining samples evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) Purveyors of **noncommunity** systems choosing to take grab samples shall collect samples for disinfectant residual concentration entering the distribution system as directed by the department.

(iv) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, purveyors shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(6) Monitoring residual disinfectant ((residuals)) concentrations within the distribution system.

(a) The purveyor shall measure the residual disinfectant concentration at representative points within the distribution system on a daily basis or as otherwise approved by the department.

(b) At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2).

PERMANENT

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-666 Reporting for filtered systems.

(1) The purveyor shall notify the department, as soon as possible, but no later than the end of the next business day, when:

- (a) A waterborne disease outbreak potentially attributable to the water system occurs;
- (b) The turbidity of the combined filter effluent exceeds 5.0 NTU at any time;
- (c) The residual disinfection concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored (~~within one hour~~) to 0.2 mg/L or more within four hours; or

(d) An event occurs which may affect the ability of the water treatment facility to produce drinking water which complies with this chapter including, but not limited to:

- (i) Spills of hazardous materials in the watershed; and
- (ii) Treatment process failures.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-664 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

- (a) Water treatment facility operations information;
- (b) Turbidity monitoring results. Continuous measurements shall be reported at equal intervals, at least every four hours, in accordance with a department-approved schedule;
- (c) Disinfection monitoring information including:
 - (i) Level of inactivation achieved;
 - (ii) Residual disinfectant concentrations entering the distribution system; and
 - (iii) Residual disinfectant concentrations within the distribution system.
- (d) Total level of removal and inactivation; and
- (e) A summary of water quality complaints received from consumers served by the water system.

(4) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-670 Compliance requirements for existing unfiltered systems installing filtration. (1) The purveyor of an existing unfiltered system shall (~~install filtration by~~):

- (a) Install filtration by:
 - (i) June 29, 1993, for systems notified by the department before December 30, 1991, to install filtration; or
 - ~~((b))~~ (ii) Eighteen months after department notification, for systems notified by the department after December 30, 1991, to install filtration.

(b) Be subject to the effective dates, compliance requirements, and treatment technique violations specified in Table 12.

(2) The purveyor under an enforcement action or compliance agreement which is dated prior to the effective date of Part 6 of chapter 246-290 WAC, shall adhere to the compliance schedule for installation of filtration established in the departmental order or bilateral compliance agreement in lieu of the dates specified in subsection (1) of this section.

Table 12
COMPLIANCE REQUIREMENTS FOR EXISTING UNFILTERED SYSTEMS NOTIFIED BY THE DEPARTMENT TO INSTALL FILTRATION

EFFECTIVE DATE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Until June 29, 1993 or until the new water treatment facility produces filtered water served to the public, whichever is later.	Subpart C treatment, monitoring and reporting requirements	Still in effect	As defined in WAC 246-290-632
Beginning June 29, 1993 or when the new water treatment facility first serves filtered water to the public, whichever is later.	Subparts A and B	No longer in effect	As defined in WAC 246-290-632

(3) The purveyor required to install filtration shall submit an action plan and schedule to the department for review and approval. The plan shall:

(a) Be submitted within ninety days of departmental notification; and

(b) Document the purveyor's plan and implementation schedule to comply with one of the following:

(i) Subparts A and B of Part 6 of chapter 246-290 WAC, if continuing to use the surface or GWI source as a permanent source and installing filtration;

(ii) Subparts A and D of Part 6 of chapter 246-290 WAC, if abandoning the surface or GWI source and purchasing completely treated water from a department-approved public water system using surface or GWI water; or

(iii) All other applicable sections of this chapter, if abandoning the surface or GWI source and developing an alternate department-approved ground water source.

(4) Between written departmental notification of the filtration requirement and installation of filtration, the purveyor shall meet:

(a) The interim disinfection requirements under WAC 246-290-672 or as otherwise directed by the department;

(b) The interim monitoring and reporting requirements under WAC 246-290-674; and

(c) All other applicable requirements of this chapter.

(5) The purveyor installing filtration shall ensure that when completed, the final treatment processes, consisting of filtration and disinfection, will comply with the requirements under WAC 246-290-660 and 246-290-662, respectively.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-686 Compliance requirements for unfiltered systems. (1) The purveyor using an unfiltered surface or GWI source shall comply with:

(a) Subparts A and D of Part 6 of chapter 246-290 WAC; and

(b) All other applicable sections of this chapter.

(2) The purveyor purchasing water from a system using a surface or GWI source shall comply with:

(a) The applicable requirements of Subpart A of Part 6 of chapter 246-290 WAC;

PERMANENT

(b) The disinfection, monitoring and reporting requirements under WAC 246-290-692 (5)(b), 246-290-694 (6)(b) and 246-290-696(4) respectively when purchasing completely treated surface or GWI water; or

(c) The treatment technique, monitoring and reporting requirements of Subpart D of Part 6 of chapter 246-290 WAC as directed by the department when purchasing incompletely treated surface or GWI water.

(3) The purveyor shall be subject to the effective dates, compliance requirements, and violations specified in:

(a) Table 13, when using an unfiltered surface source;

or

(b) Table 14, when using an unfiltered GWI source.

**Table 13
COMPLIANCE REQUIREMENTS
FOR SYSTEMS USING UNFILTERED SURFACE WATER SOURCES**

REQUIREMENTS EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
From January 1, 1991 through December 29, 1991	Only Analytical, Monitoring and Reporting Requirements (WAC 246-290-638, 246-290-694 and 246-290-696 respectively)	Still in effect	Not in effect yet
Beginning December 30, 1991 and thereafter	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

**Table 14
COMPLIANCE REQUIREMENTS
FOR SYSTEMS USING UNFILTERED GWI SOURCES**

REQUIREMENTS BECOME EFFECTIVE	APPLICABLE PART 6 REQUIREMENTS	VIOLATION TYPE	
		Turbidity MCL	Treatment Technique
Six months after GWI determination	Only Analytical, Monitoring and Reporting Requirements (WAC 246-290-638, 246-290-694 and 246-290-696 respectively)	Still in effect	Not in effect yet
Eighteen months after GWI determination	Subparts A and D	No longer in effect	In effect as defined in WAC 246-290-632

~~((3)) The purveyor of a system purchasing completely treated surface or GWI water shall comply with the disinfection, monitoring, and reporting requirements under WAC 246-290-692 (5)(b), 246-290-694 (6)(b) and 246-290-696(4), respectively.~~

~~((4)) Purveyors of systems purchasing incompletely treated surface or GWI water shall comply with the treatment technique, monitoring and reporting requirements of Subpart D of Part 6 of chapter 246-290 WAC as directed by the department.~~

~~((5)) (4) Purveyors of ((Group A)) community systems using surface water sources had the option to remain unfiltered if they demonstrated compliance with the department's criteria to remain unfiltered by December 30, 1991.~~

~~((6)) (5) A purveyor using a department-determined GWI may remain unfiltered, if within eighteen months of GWI determination, the purveyor complies with Part 6 of chapter 246-290 WAC and in particular source water quality and site-specific conditions under WAC 246-290-690 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.~~

~~((7)) (6) After the department makes an initial determination that a system may remain unfiltered, the purveyor shall comply with the source water quality and site-specific conditions under WAC 246-290-690 as demonstrated through monitoring conducted in accordance with WAC 246-290-694.~~

~~((8)) (7) The purveyor shall install filtration when:~~

(a) The system fails to meet one or more of the source water quality and site-specific conditions under WAC 246-290-690; or

(b) The department determines that installation of filtration is necessary to protect the health of consumers served by the water system.

~~((9)) (8) The department shall provide written notification to the purveyor of:~~

~~(a) A filtration requirement; and~~

~~(b) An initial determination that the system may remain unfiltered.~~

~~((10)) (9) The purveyor may comply with the requirements to install filtration by abandoning the surface water or GWI source, and:~~

~~(a) Developing an alternate, department-approved ground water source; or~~

~~(b) Purchasing completely treated water from a department-approved public water system.~~

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-692 Disinfection for unfiltered systems. (1) General requirements.

(a) The purveyor shall provide continuous disinfection treatment to ensure at least 99.9 percent (3 log) inactivation of *Giardia lamblia* cysts and 99.99 percent (4 log) inactivation of viruses at all times the system serves water to the public.

(b) The department may require the purveyor to provide greater levels of inactivation of *Giardia lamblia* cysts and viruses to protect the health of consumers.

(c) Failure to provide the required inactivation level on more than one day in any calendar month the system serves water to the public shall be considered a violation.

(2) Determining the level of inactivation.

(a) Each day the system serves water to the public, the purveyor, using procedures and CT_{99.9} values specified in 40 CFR 141.74, Vol. 54, No. 124, published June 29, 1989, copies of which are available from the department, shall determine:

(i) CT values using the system's treatment parameters and calculate the total inactivation ratio achieved by disinfection; and

(ii) Whether the system's disinfection treatment process is achieving the minimum levels of inactivation of *Giardia lamblia* cysts and viruses required by the department. For purposes of determining compliance with the inactivation requirements specified in subsection (1) of this section, no credit shall be granted for disinfection applied to a source water with a turbidity greater than 5.0 NTU.

(b) The purveyor shall be considered in compliance with the daily inactivation requirement when a total inactivation ratio equal to or greater than 1.0 is achieved.

(c) The purveyor of a system using a disinfectant other than chlorine may use CT values lower than those specified in (a) of this subsection, if the purveyor demonstrates to the department's satisfaction that the required levels of inactivation of *Giardia lamblia* cysts and viruses can be achieved using the lower CT values.

(d) The purveyor of a system using preformed chloramines or adding ammonia to the water before chlorine shall

PERMANENT

demonstrate to the department's satisfaction that the system achieves at least 99.99 percent (4 log) inactivation of viruses.

(3) The purveyor shall ensure that disinfection facilities provide either:

(a) Redundant components, including an auxiliary power supply with automatic start-up and alarm, to ensure continuous disinfection. Redundancy shall ensure that both the minimum inactivation requirements and the requirement for a 0.2 mg/L residual disinfectant concentration at entry to the distribution system are met at all times water is delivered to the distribution system; or

(b) Automatic shut-off of delivery of water to the distribution system when the residual disinfectant concentration in the water is less than 0.2 mg/L. Automatic shut-off shall be allowed only in systems where the purveyor demonstrates to the department's satisfaction that automatic shutoff will not endanger health or interfere with fire protection.

(4) Disinfectant residual entering the distribution system.

(a) The purveyor shall ensure that water entering the distribution system contains a residual disinfectant concentration, measured as free or combined chlorine, of at least 0.2 mg/L at all times the system serves water to the public; and

(b) Failure to provide a 0.2 mg/L residual at entry to distribution for more than ~~((one))~~ four hours on any day shall be considered a treatment technique violation.

(5) Disinfectant residuals within the distribution system.

(a) The purveyor shall ensure that the residual disinfectant concentration in the distribution system, measured as total chlorine, free chlorine, combined chlorine, or chlorine dioxide, is detectable in at least 95 percent of the samples taken each calendar month.

(b) The purveyor of a system which purchases completely treated surface or GWI water as determined by the department shall comply with the requirements specified in (a) of this subsection.

(c) Water in the distribution system with an HPC level less than or equal to 500/ml is considered to have a detectable residual disinfectant concentration.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-694 Monitoring for unfiltered systems. (1) Source coliform monitoring.

(a) The purveyor shall ensure that source water samples of each surface or GWI source are representative and:

(i) Collected before the first point of disinfectant application; and

(ii) Analyzed for fecal coliform density in accordance with methods acceptable to the department.

(b) The purveyor shall ensure source samples are collected for fecal coliform analysis each week the system serves water to the public based on the following schedule:

Population Served	Minimum Number/week*
25 - 500	1
501 - 3,300	2
3,301 - 10,000	3
10,001 - 25,000	4
>25,000	5

* Must be taken on separate days.

(c) Each day the system serves water to the public and the turbidity of the source water exceeds 1.0 NTU, the purveyor shall ensure one representative source water sample is collected before the first point of disinfectant application and analyzed for fecal coliform density. This sample shall count towards the weekly source coliform sampling requirement.

(d) A purveyor shall not be considered in violation of (c) of this subsection, if the purveyor demonstrates to the department's satisfaction that, for valid logistical reasons outside the purveyor's control, the additional fecal coliform sample could not be analyzed within a timeframe acceptable to the department.

(2) Coliform monitoring at entry to distribution.

(a) The purveyor shall collect and have analyzed one coliform sample at the entry point to the distribution system each day that a routine or repeat coliform sample is collected within the distribution system under WAC 246-290-300(2) or 246-290-320(2), respectively.

(b) The purveyor shall use the results of the coliform monitoring at entry to distribution along with inactivation ratio monitoring results to demonstrate the adequacy of source treatment.

(3) Source turbidity monitoring.

(a) The purveyor shall continuously monitor and record turbidity:

(i) On representative source water samples before the first point of disinfectant application; and

(ii) In accordance with the analytical techniques under WAC 246-290-638.

(b) If source water turbidity is not the same as the turbidity of water delivered to consumers, the purveyor shall continuously monitor and record turbidity of water delivered.

(4) Monitoring the level of inactivation.

(a) Each day the system is in operation, the purveyor shall determine the total level of inactivation of *Giardia lamblia* cysts and viruses achieved through disinfection.

(b) At least once per day, the purveyor shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection:

(i) Temperature of the disinfected water at each residual disinfectant concentration sampling point used for CT calculations; and

(ii) If using chlorine, pH of the disinfected water at each chlorine residual disinfectant concentration sampling point used for CT calculations.

(c) Each day during peak hourly flow, the purveyor shall:

(i) Determine disinfectant contact time, T, to the point at which C is measured; and

(ii) Measure the residual disinfectant concentration, C, of the water at the point for which T is calculated. The C measurement point must be before or at the first customer.

(5) Monitoring the residual disinfectant ~~((residual))~~ concentration entering the distribution system.

(a) Systems serving more than thirty-three hundred (>3300) people.

(i) The purveyor shall continuously monitor and record the residual disinfectant concentration of water entering the distribution system and report the lowest value each day.

PERMANENT

(ii) If the continuous monitoring equipment fails, the purveyor shall measure the residual disinfectant concentration on grab samples collected at least every four hours at the entry to the distribution system while the equipment is being repaired or replaced. The purveyor shall have continuous monitoring equipment back on-line within five working days following failure.

(b) Systems serving thirty-three hundred or less (≤ 3300) people.

(i) The purveyor shall collect grab samples or use continuous monitoring and recording to measure the residual disinfectant concentration entering the distribution system.

(ii) A purveyor choosing to take grab samples shall collect:

(A) Samples at the following minimum frequencies:

Population Served	Number/day
25 - 500	1
501 - 1,000	2
1,001 - 2,500	3
2,501 - 3,300	4

(B) At least one of the (~~disinfectant residual~~) grab samples at peak hourly flow based on historical flows for the system; and

(C) The remaining sample or samples at intervals evenly spaced over the time the system is disinfecting water that will be delivered to the public.

(iii) When grab samples are collected and the residual disinfectant concentration at the entry to distribution falls below 0.2 mg/L, the purveyor shall collect a grab sample every four hours until the residual disinfectant concentration is 0.2 mg/L or more.

(6) Monitoring residual disinfectant (~~residuals~~) concentration within the distribution system.

(a) The purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2) or once per day, whichever is greater.

(b) The purveyor of a system which purchases completely treated surface or GWI water as determined by the department shall comply with the requirements of (a) of this subsection (~~subject to departmental approval~~) or as otherwise directed by the department under WAC 246-290-300(1)(g). At a minimum, the purveyor shall measure the residual disinfectant concentration within the distribution system at the same time and location that a routine or repeat coliform sample is collected in accordance with WAC 246-290-300(2) or 246-290-320(2).

(c) The purveyor may measure HPC within the distribution system in lieu of measuring the residual disinfectant concentration in accordance with this subsection.

AMENDATORY SECTION (Amending Order 352B, filed 3/25/93, effective 4/25/93)

WAC 246-290-696 Reporting for unfiltered systems.

(1) The purveyor shall report to the department as soon as possible, but no later than the end of the next business day, when:

(a) A waterborne disease outbreak potentially attributable to the water system occurs;

(b) The turbidity of water delivered to the public exceeds 5.0 NTU;

(c) The minimum level of inactivation required by the department is not met;

(d) The residual disinfectant concentration falls below 0.2 mg/L at the entry point to the distribution system. The purveyor shall also report whether the residual was restored to 0.2 mg/L or more within (~~one~~) four hours; or

(e) The surface or GWI source is taken off-line due to an emergency.

(2) The purveyor shall report results of monitoring conducted in accordance with WAC 246-290-694 to the department. Monthly report forms shall be submitted within ten days after the end of each month the system served water to the public.

(3) The purveyor shall report, at a minimum, all the information requested by the department using a department-approved form or format including:

(a) Water quality information, including the results of both:

(i) Source coliform monitoring; and

(ii) Source turbidity monitoring.

(b) Disinfection monitoring information, including:

(i) Level of inactivation achieved;

(ii) Residual disinfectant concentrations entering the distribution system; and

(iii) Residual disinfectant concentrations within the distribution system.

(c) A summary of water quality complaints received from consumers served by the water system.

(4) The purveyor of a system which purchases completely treated water shall:

(a) Report results of distribution system residual disinfectant concentration monitoring to the department using department-approved forms or format; and

(b) Submit forms to the department in accordance with subsection (~~(1)~~) (2) of this section or as otherwise directed by the department.

(5) A person certified under chapter 246-292 WAC shall complete and sign the monthly report forms required in this section.

(6) Beginning in 1992, by October 10th of each year, the purveyor shall submit to the department an annual comprehensive report which summarizes the:

(a) Effectiveness of the watershed control program and identifies, at a minimum, the following:

(i) Activities in the watershed which are adversely affecting source water quality;

(ii) Changes in the watershed that have occurred within the previous year which could adversely affect source water quality;

(iii) Activities expected to occur in the watershed in the future and how the activities will be monitored and controlled;

(iv) The monitoring program the purveyor uses to assess the adequacy of watershed protection including an evaluation of sampling results; and

(v) Special concerns about the watershed and how the concerns are being addressed;

PERMANENT

(b) System's compliance with the criteria to remain unfiltered under WAC 246-290-690; and

(c) Significant changes in system design and/or operation which have occurred within the previous year which impact the ability of the system to comply with the criteria to remain unfiltered.

(7) The purveyor of a system attempting to remain unfiltered shall submit a *Filtration Decision Report* at the request of the department. The report shall:

(a) Provide the information needed by the department to initially determine whether a system meets the criteria to remain unfiltered; and

(b) Be submitted by the deadline specified by the department.

WSR 94-14-002
PERMANENT RULES
DEPARTMENT OF HEALTH

(State Board of Health)

[Filed June 22, 1994, 1:52 p.m.]

Date of Adoption: May 30, 1994.

Purpose: To take applicable requirements from existing chapter 246-290 WAC and establish a separate WAC chapter dealing only with Group B public water systems.

Statutory Authority for Adoption: RCW 43.20.050.

Pursuant to notice filed as WSR 94-06-008 on February 18, 1994.

Changes Other than Editing from Proposed to Adopted Version: Eleven changes were made [no additional information was supplied by agency].

Effective Date of Rule: Thirty-one days after filing.

June 16, 1994

Sylvia I. Beck

Executive Director

Chapter 246-291 WAC
GROUP B PUBLIC WATER SYSTEMS

NEW SECTION

WAC 246-291-001 Purpose and scope. (1) The purpose of these rules is to define basic regulatory requirements to protect the health of consumers using Group B public drinking water supplies. These rules are specifically designed to ensure the provision of high quality drinking water in a reliable manner and in a quantity suitable for intended use.

(2) The rules set forth are adopted under chapter 43.20 RCW and owners of Group B public water systems shall be responsible for ensuring compliance with these rules. Other statutes relating to this chapter are:

(a) RCW 43.20B.020, Fees for services—Department of health and department of social and health services;

(b) Chapter 43.70 RCW, Department of health;

(c) Chapter 70.05 RCW, Local health departments, boards, officers—Regulations;

(d) Chapter 70.116 RCW, Public Water System Coordination Act of 1977; and

(e) Chapter 70.119A RCW, Public water systems—Penalties and compliance.

(3) Prior to expanding a Group B public water system to a Group A public water system, the entire system shall be brought into compliance with chapter 246-290 WAC.

NEW SECTION

WAC 246-291-010 Definitions. Abbreviations:

CSE - comprehensive system evaluation;

GW - ground water under the direct influence of surface water;

m - meter;

MCL - maximum contaminant level;

mg/L - milligrams per liter;

ml - milliliter;

mm - millimeter;

NTU - nephelometric turbidity unit;

psi - pounds per square inch;

umhos/cm - micromhos per centimeter;

VOC - volatile organic chemical;

WFI - water facilities inventory form; and

WHPA - wellhead protection area.

"**Authorized agent**" means any person who:

Makes decisions regarding the operation and management of a public water system whether or not he or she is engaged in the physical operation of the system;

Makes decisions whether to improve, expand, purchase, or sell the system; or

Has discretion over the finances of the system.

"**Coliform sample**" means a sample of water collected from the distribution system at or after the first service and analyzed for coliform presence in compliance with this chapter.

"**Comprehensive system evaluation (CSE)**" means a review, inspection and assessment of a public water system, including, but not limited to: Source; facilities; equipment; operation and administration; maintenance; records; planning documents and schedules; and monitoring, for the purpose of ensuring that safe and adequate drinking water is provided.

"**Confirmation**" means to demonstrate the results of a sample to be precise by analyzing a repeat sample. Confirmation occurs when analysis results fall within plus or minus thirty percent of the original sample.

"**Contaminant**" means a substance present in drinking water which may adversely affect the health of the consumer or the aesthetic qualities of the water.

"**Cross-connection**" means a physical arrangement connecting a public water system, directly or indirectly, with anything other than another potable water system, and capable of contaminating the public water system.

"**Department**" means the Washington state department of health or health officer as identified in a joint plan of operation in accordance with WAC 246-291-030(1).

"**Disinfection**" means the use of chlorine or other agent or process the department approves for killing or inactivating microbiological organisms, including pathogenic and indicator organisms.

"**Distribution system**" means that portion of a public water supply system which stores, transmits, pumps, and distributes water to consumers.

"**Expanding public water system**" means a public water system installing additions, extensions, changes, or alterations to their existing source, transmission, storage, or

distribution facilities which will enable the system to increase in size its existing service area and/or its number of approved service connections.

"Fire flow" means the rate of water flow needed to fight fires under WAC 246-293-640 or adopted city, town, or county standards.

"Generator disconnect" means an electrical circuit arranged to allow connection of a generator to the power supply for the pumping equipment while prohibiting electrical current from flowing back into the main service line.

"Ground water under the direct influence of surface water (GWI)" means any water beneath the surface of the ground, which the department determines has the following characteristics:

Significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*; or

Significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH closely correlating to climatological or surface water conditions.

"Group A water system" means a public water system:

With fifteen or more service connections, regardless of the number of people; or serving an average of twenty-five or more people per day for sixty or more days within a calendar year, regardless of the number of service connections.

"Group B water system" means a public water system with less than fifteen service connections and serving:

An average of less than twenty-five people per day for sixty or more days within a calendar year; or

Any number of people for less than sixty days within a calendar year.

"Guideline" means a department document assisting the owner in meeting a rule requirement.

"Health officer" means the health officer of the city, county, city-county health department or district, or an authorized representative.

"Hydraulic analysis" means the study of the water system network evaluating water flows within the distribution system under worst case conditions such as, peak hourly design flow plus fire flow, when required. Hydraulic analysis includes consideration of all factors affecting system energy losses.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water delivered to any public water system user.

"Maximum contaminant level violation" means a confirmed measurement above the MCL and for a duration of time, where applicable.

"Owner" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity that holds as property, a public water system.

"Peak hourly design flow" means the maximum rate of water use, excluding fire flow, which can be expected to ever occur within a defined service area over a sixty minute time period.

"Potable" means water suitable for drinking by the public.

"Pressure zone" means a distribution system whereby an established minimum and maximum pressure range can

be maintained without the use of ancillary control equipment (e.g., booster pumps, pressure reducing valves, etc.).

"Primary standards" means standards based on chronic, nonacute, or acute human health effects.

"Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including collection, treatment, storage, or distribution facilities used primarily in connection with such system.

"Repeat sample" means a sample collected to confirm the results of a previous analysis.

"Same farm" means a parcel of land or series of parcels which are connected by covenants and devoted to the production of livestock or agricultural commodities for commercial purposes and does not qualify as a Group A water system.

"Secondary standards" means standards based on factors other than health effects such as taste and odor.

"Service" means a connection to a public water system designed to provide potable water.

"Special purpose sample" means a sample collected for reasons other than the monitoring compliance specified in this chapter.

"Standard methods" means the 18th edition of the book, titled *Standard Methods for the Examination of Water and Waste Water*, jointly published by the American Public Health Association, American Water Works Association (AWWA), and Water Pollution Control Federation. This book is available through public libraries or may be ordered from AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235.

"State board of health" and **"board"** means the board created by RCW 43.20.030.

"Surface water" means a body of water open to the atmosphere and subject to surface runoff.

"Volatile organic chemical (VOC)" means a manufactured carbon-based chemical that vaporizes quickly at standard pressure and temperature.

"Water facilities inventory form (WFI)" means the department form summarizing each public water system's characteristics.

"Well field" means a group of wells one system owns or controls which:

Draw from the same aquifer or aquifers as determined by comparable inorganic chemical analysis; and

Discharge water through a common pipe and the common pipe shall allow for collection of a single sample before the first distribution system connection.

NEW SECTION

WAC 246-291-020 Applicability. (1) The rules of this chapter shall apply to all Group B public water systems except those systems meeting all of the following conditions:

(a) Consists only of distribution and/or storage facilities and does not have any source or treatment facilities;

(b) Obtains all water from, but is not owned by, a public water system where the rules of this chapter or chapter 246-290 WAC apply;

(c) Does not sell water directly to any person; and

(d) Is not a passenger-conveying carrier in interstate commerce.

For the purposes of this section, "sell" shall mean to bill separately for drinking water or to include a drinking water line item as part of an itemized listing in a bill delivered to residences, or equivalent services connected to a public water system.

(2) Group B public water systems meeting all of the conditions under subsection (1) of this section may be required by the department to comply with such provisions of this chapter as are necessary to resolve a public health concern if the department determines a public health threat exists or is suspected.

NEW SECTION

WAC 246-291-025 Bottled water. (1) Any water source used for bottling, regardless of size, shall meet the minimum requirements required under chapter 246-290 WAC.

(2) In addition to the requirements imposed by the department, the processing of bottled water is regulated by the state department of agriculture and the United States Food and Drug Administration.

NEW SECTION

WAC 246-291-030 General administration. (1) The department and the health officer for each local health jurisdiction may develop a joint plan of operation. Responsibility for administering these rules shall remain with the department of health unless there is a joint plan of operation in place. This plan shall:

(a) List the roles and responsibilities and specifically designate those systems for which the department and local health officer have primary responsibility;

(b) Provide a list of water system requirements and procedures which the local board of health may waive for systems within its jurisdiction;

(c) Provide for a level of water system supervision necessary to effectively achieve listed responsibilities;

(d) Be signed by the department and the local health department or district; and

(e) Be reviewed at least once every five years and updated as needed.

Wherever in these rules the term "department" is used, the term "health officer" may be substituted based on the terms of this joint plan of operation.

(2) The local board of health may adopt rules pursuant to RCW 70.05.060 governing public water systems for which the health officer has assumed primary responsibility. Adopted local board of health rules shall be:

(a) No less stringent and may be more stringent than this chapter; and

(b) Revised, if necessary, within twelve months after the effective date of revised state board of health rules. During this time period, existing local rules shall remain in effect, except provisions of the revised state board of health rules which are more stringent than the local board of health rules shall apply.

(3) The health officer may eliminate any or all requirements of these rules for water systems with only two

residential connections where the health officer has assumed primary responsibility for these systems.

(4) The health officer may approve design reports and water system plans which reflect good engineering practice such as those found in the department guideline titled *Group B Water System Approval*, for those public water systems where the health officer has assumed primary responsibility.

(5) The health officer may substitute results of a calculated fixed radius method and a ten year time of travel criteria instead of using the six hundred foot radius prescribed in WAC 246-291-100 (2)(f) and 246-291-110 (3)(f).

(6) The department may develop and distribute guidelines to clarify sections of the rules as needed.

(7) Fees may be charged by the department of health as authorized in RCW 43.20B.020 and by local health agencies as authorized in RCW 70.05.060 to recover all or a portion of the costs incurred in administering these rules.

NEW SECTION

WAC 246-291-040 Requirements for engineers. (1) Owners shall ensure that all design reports are prepared by a professional engineer:

(a) Licensed in the state of Washington under chapter 18.43 RCW; and

(b) Having specific expertise regarding design, operation and maintenance of public water systems.

All documents shall bear the engineer's seal and signature.

(2) Until such date as regulations addressing professional engineering requirements for public water systems take effect after adoption by the state board of registration for professional engineers and land surveyors under authority of chapter 18.43 RCW, exceptions to the professional engineer requirement are:

(a) Minor improvements exempted from design report requirements under WAC 246-291-120(1); and

(b) Public water systems serving less than ten service connections consisting of a simple well and pressure tank with one pressure zone and not providing treatment other than simple chlorine disinfection or having special hydraulic considerations, where the local health officer has been delegated authority to:

(i) Approve plans and design reports; or

(ii) Review plans and design reports for completeness prior to forwarding to the department of health for approval.

(3) A "Construction Report For Public Water System Projects" shall be submitted to the department on a department approved form within sixty days of completion and before use of any approved project. The form shall:

(a) Be signed by a professional engineer, or in the case of projects not requiring a professional engineer as outlined in this section, the water system owner;

(b) State that the project is constructed and is completed in accordance with approved design reports; and

(c) State that, in the opinion of the engineer or the water system owner, based on information available, the installation, testing, and disinfection of the system was carried out in accordance with applicable sections of chapters 246-291 and 246-290 WAC.

(4) It shall be the responsibility of the owner to ensure the requirements of this section are fulfilled before the use of any completed project.

NEW SECTION

WAC 246-291-050 Enforcement. (1) When a system is out of compliance with these rules, the department may initiate appropriate enforcement actions, regardless of any prior approvals issued by the department, including, but not limited to:

- (a) Issuance of a compliance schedule;
 - (b) Issuance of departmental orders requiring submission of water system plans, design reports, and construction report forms;
 - (c) Issuance of departmental orders requiring specific actions or ceasing unacceptable activities within a designated time period;
 - (d) Issuance of departmental orders to stop work and/or refrain from using any public water system or improvements thereto until all written approvals required by statute or rule are obtained;
 - (e) Imposition of civil penalties as authorized under chapter 70.119A RCW or local authority where applicable; and
 - (f) Legal action by the attorney general or local prosecutor.
- (2) When enforcing the MCLs under this chapter, the department shall enforce compliance with the primary MCLs as its first priority.

NEW SECTION

WAC 246-291-060 Waivers. (1) The state board of health or the local health officer in those counties having a joint plan of operation, may grant waivers of the requirements of this chapter, provided that procedures used are consistent with WAC 246-290-060 (5)(b) and in the case where a local health officer is authorized to grant the waiver, procedures used shall be approved by the department of health as part of the joint plan of operation.

(2) Consideration by the board or local health officer of requests for waivers shall not be considered adjudicative proceedings as that term is defined in chapter 34.05 RCW.

(3) Statements and written material regarding the request may be presented to the board or local health officer wherein the application will be considered.

(4) The board or local health officer may grant a waiver if it determines the water system is unable to comply with the requirements and granting of the waiver will not result in an unreasonable risk to the health of consumers. No waivers may be granted for exceedance of a primary MCL.

(5) A waiver granted under this section shall lapse two years from the date of issuance unless the water system project has been completed or an extension is granted.

NEW SECTION

WAC 246-291-100 Ground water source approval and protection. (1) The owner shall ensure that drinking water is obtained from the highest quality source feasible. Existing sources shall conform to the primary water quality standards established in this chapter. Proposed sources shall

conform to the primary and secondary water quality standards established in this chapter and the well construction standards established under chapter 173-160 WAC. The owner shall be responsible for submitting evidence required by the department to determine whether a proposed ground water source is a GWI.

(2) No new source, previously unapproved source, or modification of an existing source shall be used as a drinking water supply without department approval. A party seeking approval shall provide:

- (a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;
- (b) A copy of the source site inspection approval made by the department or local health jurisdiction representative;
- (c) Well source development data establishing source capacity. Data shall include static water level, yield, amount of drawdown, recovery rate and duration of pumping. The source shall be pump tested to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine proper pump settings. A department guideline titled *Group B Water System Approval* is available to assist owners;
- (d) Upgradient water uses affecting either water quality or quantity;

(e) A map showing the project location and vicinity including a six hundred foot radius around the well site designating the preliminary short term ground water contribution area;

(f) A map depicting topography, distances to well or spring from existing property lines, buildings, potential sources of contamination within the six hundred foot radius around the well, and any other natural or man-made features affecting the quality or quantity of water;

(g) The dimensions and location of sanitary control area;

(h) Copies of the recorded legal documents for the sanitary control area;

(i) A copy of the water well report;

(j) A general description of the spring and/or aquifer recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(k) Documentation of totalizing source meter installation;

(l) An initial analysis result of raw water quality from a certified lab, including as a minimum, a bacteriological, complete inorganic chemical and physical analysis of the source water quality;

(m) In areas where the department determines that other contamination may be present, or at the discretion of the department, sample results for these contaminants may be required;

(n) If water quality information from (l) and (m) of this subsection shows a contaminant level of concern, the department may require further action by the owner; and

(o) If water quality results taken from the proposed source confirm a primary MCL violation, the owner shall ensure that appropriate treatment is provided.

(3) The owner shall contact the department before developing or modifying a source, to identify any additional requirements the department deems necessary.

(4) Sanitary control area.

(a) The owner shall ensure that a sanitary control area is maintained around all sources for the purpose of protecting them from existing and potential sources of contamination. A department guideline titled *Group B Water System Approval* describes activities which should be precluded within the sanitary control area and is available from the department on request.

(b) The minimum sanitary control area shall have a radius of one hundred feet (thirty meters) for wells, and two hundred feet (sixty meters) for springs, unless engineering justification supports a smaller area. The justification must address geological and hydrological data, well construction details and other relevant factors necessary to assure adequate sanitary control.

(c) The department may require a larger sanitary control area if geological and hydrological data support such a decision. It shall be the owner's responsibility to obtain the protection needed.

(d) No source of contamination may be constructed, stored, disposed of, or applied within the sanitary control area without the permission of the department and the system owner.

(e) The sanitary control area shall be owned in fee simple, or the owner shall have the right to exercise complete sanitary control of the land through other legal provisions.

(f) The owner shall obtain a duly recorded restrictive covenant which shall run with the land, restricting the use of said land in accordance with these rules.

NEW SECTION

WAC 246-291-110 Surface water and GWI source approval and protection. (1) The owner shall ensure that drinking water is obtained from the highest quality source feasible. Existing sources shall conform to the primary water quality standards established in this chapter. Proposed sources shall conform to the primary and secondary water quality standards established in this chapter. The owner shall be responsible for submitting evidence required by the department to determine whether a proposed ground water source is a GWI.

(2) No new source, previously unapproved source, or modification of an existing source shall be used as a drinking water supply without department approval. As of the effective date of these rules, the department shall no longer approve new or expanding surface water or GWI sources unless the department determines they meet the following conditions:

(a) The system is under the ownership and operation of a department of health approved satellite management agency; and

(b) Continuous effective treatment, including filtration, disinfection and any other measures required under chapter 246-290 WAC are provided.

(3) An owner seeking source approval shall provide the department:

(a) A copy of the water right permit, if required, obtained from the department of ecology for the source, quantity, type, and place of use;

(b) A copy of the source site inspection approval made by the department or local health jurisdiction representative;

(c) Upgradient water uses affecting either water quality or quantity;

(d) A map showing the project location and vicinity;

(e) A map depicting topography, distances to the surface water intake or GWI source from existing property lines, buildings, potential sources of contamination, ditches, drainage patterns, and any other natural or man-made features affecting the quality or quantity of water;

(f) For GWI sources:

(i) A map depicting topography, distances to well or spring from existing property lines, buildings, potential sources of contamination within the six hundred foot radius around the well, and any other natural or man-made features affecting the quality or quantity of water;

(ii) Copies of the recorded legal documents for the sanitary control area;

(iii) A copy of the water well report if applicable;

(iv) A general description of the recharge area affecting the quantity or quality of flow. Seasonal variation shall also be included;

(v) Well development data establishing source capacity. Data shall include static water level, yield, amount of drawdown, recovery rate and duration of pumping. The source shall be pump tested to determine whether the well and aquifer are capable of supplying water at the rate desired and to provide information necessary to determine proper pump settings. A department guideline titled *Group B Water System Approval* is available to assist owners.

Existing and proposed sources shall conform to the well construction standards established under chapter 173-160 WAC if applicable.

(g) Documentation of totalizing source meter installation;

(h) An initial analysis result of raw water quality from a certified lab, including as a minimum a bacteriological, complete inorganic chemical and physical analysis of the source water quality;

(i) In areas where the department determines that other contamination may be present, or at the discretion of the department, sample results for these contaminants may also be required;

(j) If water quality information from (h) and (i) of this subsection shows a contaminant level of concern, the department may require further action by the owner; and

(k) If water quality results taken from the proposed source confirm a primary MCL violation, the owner shall ensure that appropriate treatment is provided which shall eliminate the public health risk to consumers served by the system.

(4) Watershed control program.

(a) Owners of new or expanding surface water or GWI sources shall ensure the development and submittal of a watershed control program to the department for review and approval. Once approved, the owner shall implement the program.

(b) This program shall be part of the water system plan required in WAC 246-291-140.

(c) The owner's watershed control program shall contain, at a minimum, the following elements:

(i) Watershed description and inventory, including location, hydrology, land ownership and activities which may adversely affect water quality;

(ii) Watershed control measures, including documentation of ownership and relevant written agreements, monitoring procedures and water quality;

(iii) System operation, including emergency provisions; and

(iv) Documentation of water quality trends.

Sections in the department guideline titled *Planning Handbook* and in the *DOH SWTR Guidance Manual* address watershed control and are available to owners.

(d) The owner shall ensure submittal of the watershed control program to the department for review and approval. Following department approval, the owner shall ensure implementation as approved.

(e) The owner shall update the watershed control program at least every six years, or more frequently if required by the department.

NEW SECTION

WAC 246-291-120 Design report approval. (1) Design reports shall be submitted to the department for written approval prior to installation of any new water system, or water system extension or improvement with the following exceptions:

(a) Installation of valves, fittings, and meters;

(b) Repair of a system component or replacement with a similar component of the same capacity; and

(c) Maintenance or painting of surfaces not contacting potable water.

(2) Design reports submitted for approval by owners of systems required to have a water system plan, will not be considered for approval unless there is a current approved water system plan and the plan adequately addresses the project.

(3) Design reports shall include, at a minimum, the following:

(a) Alternatives. Verify contacts with other water system owners as applicable in accordance with WAC 246-291-140(2);

(b) Legal considerations. Identify legal aspects such as ownership, right-of-way, sanitary control area, and restrictive covenants;

(c) Engineering calculations. Describe how the project complies with the design considerations;

(d) Drawings. Include detailed drawings of each project component;

(e) Material specifications. List detailed material specifications for each project component;

(f) Construction specifications. List detailed construction specifications and assembly techniques for carrying out the project;

(g) Testing. Identify testing criteria and procedures for each applicable portion of the project;

(h) Disinfection. Identify specific disinfection procedures which must conform with American Water Works Association standards or other standards acceptable by the department;

(i) Inspection. Identify provisions for inspection of the installation of each project component. See WAC 246-291-040 for construction reporting requirements; and

(j) Change orders. All changes except for minor field revisions must be submitted to and approved by the department in writing.

(4) Approval of design reports shall be in effect for two years unless the department determines a need to withdraw the approval. An extension of the approval may be obtained by submitting a status report and a written schedule for completion. Extensions may be subject to additional terms and conditions imposed by the department.

NEW SECTION

WAC 246-291-130 Existing system approval. (1) At the discretion of the department, owners of existing systems without approved design reports shall, as determined by the department, provide information necessary to establish the extent of the water systems compliance with this chapter.

(2) After receipt of the required data, the department shall review the information and place the system into one of the following categories:

(a) Fully approved/adequate. A fully approved system has been found to be in full compliance with these regulations and may add services if designed accordingly; or

(b) Provisionally adequate. A provisionally adequate system complies with all applicable MCL and treatment standards, fire flow requirements where applicable, and meets a twenty psi minimum pressure requirement under peak hourly design flow conditions but may not be in compliance with other regulatory requirements. A provisionally adequate system is considered satisfactory for its existing services, but may not expand to supply additional services; or

(c) Inadequate. Any system not identified in (a) or (b) of this subsection. The system is considered unsatisfactory and no additional service connections can be made to an inadequate system.

(3) After categorizing the system, the department shall notify the owner in writing of the following:

(a) The system's category;

(b) The relationship of the system's category with respect to adding service connections and potential comments on status request letters; and

(c) If the system is not fully approved, what additional actions the owner needs to complete before a full or provisional approval is granted.

(4) The department is authorized to take enforcement actions in accordance with WAC 246-291-050.

NEW SECTION

WAC 246-291-140 Water system planning requirements. (1) Water system plan.

(a) The water system plan shall:

(i) Identify present and future needs;

(ii) Set forth means for meeting those needs; and

(iii) Do so in a manner consistent with other relevant plans and local, state, and federal laws.

(b) Owners of the following categories of systems shall ensure the development and submittal of a water system plan for review and approval by the department:

(i) All systems as required by chapter 70.116 RCW the Public Water System Coordination Act of 1977 and chapter 246-293 WAC and created after September 21, 1977;

(ii) Any system experiencing problems related to planning, operation, and/or management as determined by the department;

(iii) Any proposed or expanding system as determined by the department; and

(iv) Any system which installs treatment, other than simple chlorination disinfection equipment, after the effective date of these regulations.

(c) A department guideline titled *Group B Water System Approval* is available from the department to assist owners in developing this plan. Design reports may be combined with a water system plan. To the extent to which they are applicable, the water system plan shall address the following elements:

(i) Description of system management and ownership;

(ii) Service area and identification of existing and proposed major facilities;

(iii) Maximum number of connections;

(iv) Water conservation program. Systems which are developed or expanded after the effective date of this rule shall develop a conservation program;

(v) Relationship and compatibility with other plans;

(vi) Water source information;

(vii) Source protection (including required protective covenants, wellhead protection and watershed control where applicable); and

(viii) Financial viability.

(2) Prior to developing a new water system, the developer of the proposed system shall follow the steps listed below as applicable:

(a) If the proposed system is located within the boundaries of a critical water supply service area, the ability to develop an independent system shall be governed by the provisions of the Public Water System Coordination Act, chapter 70.116 RCW and chapter 246-293 WAC, and will be subject to the jurisdictional coordinated water system plan; or

(b) If the proposed system consists of a surface water or GWI source, ensure that the proposed system will be owned and operated by a department-approved satellite system management agency; or

(c) If the proposed system utilizes ground water only and is not located within the boundaries of a critical water supply service area, the developer shall:

(i) Contact the following potential water service providers in writing, and provide proof of such attempted contact to the department:

(A) The public water system which has a service area identified in a department-approved water system plan that includes the proposed development area;

(B) Each existing public water system serving property within one thousand feet; and

(C) Available department of health approved satellite management agencies.

(ii) Upon completion of the steps listed in (c)(i) of this subsection, the developer of the proposed system has the option of developing an independent water system.

(3) For systems approved after the effective date of these rules, a summary of the following shall be recorded, by the system owner, on all affected property titles as a means of providing information about the system to property

owners, lending institutions, and other potentially affected parties:

(a) Notice that the property is served by a public water system;

(b) The initial water system plan, planning section of the *Group B Water System Guideline*, or equivalent information from other documents as determined by the department;

(c) Notice that the system is subject to state and local rules;

(d) Recommendation to check with the jurisdictional regulatory authority on the current system status;

(e) Notice that fees may be assessed by the department for providing information on a public water system;

(f) Requirement for satellite management, if applicable;

(g) Notice of any waivers granted to the system; and

(h) Other information required by the department.

NEW SECTION

WAC 246-291-200 Design standards. (1) Water system owners shall ensure that good engineering practices are used in the design of all public water systems. Information on what is good engineering practice is available from the department in the guideline titled *Group B Water System Approval*.

(2) In addition, owners of new or expanding public water systems shall ensure the following factors are addressed:

(a) Local conditions, plans and/or regulations;

(b) Public Water System Coordination Act considerations where appropriate; and

(c) Other requirements as determined by the department.

(3) Any pipe, pipe fittings, solder, or flux used in the installation or repair of a public water system shall be lead-free. Within the context of this section, lead-free shall mean having no more than eight percent lead in pipes and pipe fittings, and no more than two-tenths of one percent lead in solder and flux. This prohibition shall not apply to leaded joints necessary for the repair of cast iron pipes.

NEW SECTION

WAC 246-291-210 Distribution systems. (1) All distribution reservoirs shall have suitable watertight roofs or covers preventing entry by birds, animals, insects, and dust and shall include appropriate provisions to safeguard against trespass, vandalism, and sabotage. All new distribution reservoirs shall be able to be drained by gravity to daylight.

(2) The owner shall ensure that the distribution system is sized and evaluated using a hydraulic analysis acceptable to the department.

(3) Systems designed to provide fire hydrants shall have a minimum distribution main size of six inches (150 mm).

(4) New water systems or additions to existing systems shall provide a design quantity of water at a positive pressure of at least thirty psi throughout the system under peak hourly design flow conditions measured at any customer's water meter or at the property line if no meter exists.

(5) If fire flow is to be provided, the distribution system shall be designed to provide the required fire flow at a pressure of at least twenty psi throughout the system during peak hourly design flow conditions.

(6) Booster pumps needed for individual services shall be subject to review and approval by the department. Installation shall be made under the supervision of the owner to ensure cross-connection control requirements are met. Installation of booster pumps which are an integral part of the system design shall be inspected and certified by the engineer.

NEW SECTION

WAC 246-291-220 Disinfection of facilities. No portion of a public water system containing potable water shall be put into service, nor, if service has been terminated, shall service resume, until the facility has been effectively disinfected. The procedure used for disinfection shall conform to the American Water Works Association standards or other standards acceptable to the department. In cases of new construction, drinking water shall not be furnished to the consumer until satisfactory bacteriological samples have been analyzed by a laboratory certified by the state.

NEW SECTION

WAC 246-291-230 Treatment design and operations. (1) Finished water quality from existing and proposed sources of supply shall conform to the minimum water quality standards established in this chapter.

(2) Predesign studies shall be required for proposed surface water and GWI treatment and may be required for ground water treatment. The goal of the predesign study shall be to establish the most acceptable method to produce satisfactory finished water quality.

(3) Treatment of ground water sources shall be as determined by the department.

(4) The minimum level of treatment for new or expanding surface water and GWI sources approved after the effective date of these regulations shall be coagulation, flocculation, filtration, and disinfection unless otherwise approved by the department.

(5) The minimum level of treatment for existing nonexpanding surface water and GWI sources approved prior to the effective date of these regulations shall be filtration and disinfection.

(6) Disinfection methods, other than chlorination, i.e., ozonation or ultraviolet radiation, may be approved by the department with appropriate engineering justification.

(7) The owner shall ensure that the system is operated in accordance with good operations procedures such as those listed in the department guideline titled *Group B Water System Approval*.

(8) The owner shall ensure that no bypass is established or maintained to divert water around any feature of a treatment process, except by written approval from the department.

NEW SECTION

WAC 246-291-240 Reliability. (1) All public water systems shall provide an adequate quantity and quality of water in a reliable manner.

(a) In determining whether a proposed public water system or an expansion or modification of an existing system is capable of providing an adequate quantity of water, the

department shall consider the immediate as well as the reasonably anticipated future needs of the system's consumers.

(b) In determining whether an existing public water system is providing an adequate quantity of water, the department shall consider the needs of the system's existing consumers exclusively, unless, in the department's discretion, consideration of the needs of potential consumers is in the public interest.

(2) The owner shall ensure the system is constructed, operated, and maintained to protect against failures. New and expanding systems shall be equipped with a generator disconnect. Security measures shall be employed to assure the water source, water treatment processes, water storage facilities, and the distribution system are under the strict control of the owner.

(3) Where fire flow is required, a positive pressure shall be maintained throughout the system under fire flow conditions.

(4) Water pressure at the customer's service meter or property line if a meter is not used, shall be maintained at the approved design pressure under peak hourly design flow conditions.

(5) No intake or other connection shall be maintained between a public water system and a source of water not approved by the department.

(6) Owners shall provide the department with the current names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the system, including any changes to this information. The owner shall ensure that customer concerns and service complaints are responded to in a timely manner.

NEW SECTION

WAC 246-291-250 Continuity of service. (1) No owner shall transfer system ownership without providing written notice to the department and all customers. Notification shall include a time schedule for transferring responsibilities, identification of the new owner, and under what authority the new ownership will operate. If the system is a corporation, identification of the registered agent shall also be provided.

(2) The system transferring ownership shall ensure all health-related standards are met during transfer and shall inform and train the new owner regarding operation of the system.

(3) No owner shall end utility operations without providing written notice to all customers and the department at least one year prior to termination of service.

(4) Nothing in these rules shall prohibit an owner from terminating service to a specific customer if the customer fails to pay normal fees for service in a timely manner or if the customer allows or installs an unauthorized service connection to the system.

(5) Where this section may be in conflict with existing state statutes, the more stringent statute shall prevail.

NEW SECTION**WAC 246-291-260 Recordkeeping and reporting.**

(1) The owner shall ensure that the following records of operation and water quality analyses are kept on file:

(a) Records of bacteriological and turbidity analyses shall be kept for five years. Records of chemical analyses shall be kept for as long as the system is in operation. Other records of operation and analyses required by the department shall be kept for three years. All records shall bear the signature of the owner of the water system or his or her representative.

(b) Records of action taken by the system to correct violations of primary drinking water regulations and copies of public notifications shall be kept for three years after the last action taken with respect to the particular violation involved.

(c) Copies of any written reports, summaries, or communications, relating to comprehensive system evaluations (CSEs) conducted by system personnel, by a consultant or by any local, state, or federal agency, shall be kept for ten years after completion of the CSE involved.

(d) Where applicable, records of operation and analyses shall include the following:

(i) Daily chlorine residual;

(ii) Water treatment plant performance including, but not limited to:

(A) Type of chemicals used and quantity;

(B) Amount of water treated; and

(C) Results of analyses.

(iii) Daily turbidity;

(iv) Monthly water use readings from totalizing source meters; and

(v) Other information as specified by the department.

(2) Reporting.

(a) The owner shall ensure that reports required by this chapter, are submitted to the department when requested by the department or as otherwise required by this section, including tests, measurements, and analytic reports.

(b) Water facilities inventory and report form (WFI).

(i) Owners shall ensure the submittal of an updated WFI to the department every three years or as requested; and

(ii) The owner shall also ensure the submittal of an updated WFI to the department within thirty days of any change in name, number of connections, ownership, or responsibility for management of the water system.

(c) Bacteriological.

(i) The owner shall ensure that the department is notified of the presence of:

(A) Coliform in a sample, within ten days of notification by the laboratory; and

(B) Fecal coliform or E. coli in a sample, by the end of the business day in which the owner is notified by the laboratory or as soon as possible.

(ii) When a coliform MCL violation occurs, the owner shall ensure that the following notifications are made:

(A) Notification of the department before the end of the next business day when a coliform MCL is determined; and

(B) Notification of the water system users in accordance with WAC 246-291-360.

(d) Water use data shall be reported upon request of the department.

NEW SECTION**WAC 246-291-270 Cross-connection control.**

(1) Owners have the responsibility to protect public water systems from contamination due to cross-connections.

(2) Cross-connections which can be eliminated shall be eliminated. The owner shall work cooperatively with local authorities to eliminate or control potential cross-connections in a manner acceptable to the department.

(3) When an existing cross-connection poses a potential health or system hazard, the owner shall shut off water service to the premises until the cross-connection has been eliminated or controlled by the installation of a proper backflow prevention assembly.

(4) Backflow prevention devices shall be approved by the department and tested in a manner prescribed by the department in WAC 246-290-490.

NEW SECTION**WAC 246-291-300 General monitoring requirements.**

(1) The department may require additional monitoring when it determines contamination is present or suspected in the water system or when it determines the source may be vulnerable to contamination.

(2) Special purpose samples shall not count toward fulfillment of the monitoring requirements of this chapter.

(3) The owner shall ensure samples required by this chapter are collected, transported, and submitted for analysis according to department-approved methods. The analyses shall be performed by the state public health laboratory or another laboratory certified by the department. Qualified water utility, certified laboratory, or department personnel may conduct measurements for pH, temperature, residual disinfectant concentration and turbidity as required by this chapter, provided, these measurements are made in accordance with *Standard Methods*.

(4) When one Group B water system sells water to another public water system and the cumulative number of services or population served meet the definition of a Group A system, the owner of the selling system shall ensure that source monitoring is conducted in accordance with the minimum requirements for Group A community systems found in chapter 246-290 WAC.

NEW SECTION

WAC 246-291-310 General follow-up. (1) If a water quality sample exceeds any MCLs listed in this chapter, the owner shall ensure notification of the department and take follow-up action as described in this chapter.

(2) When a primary MCL violation occurs, the owner shall ensure that the following actions are taken:

(a) Notification of the department in accordance with WAC 246-291-260;

(b) Notification of the consumers served by the system in accordance with WAC 246-291-360;

(c) Determination of the cause of the contamination; and

(d) Other action as directed by the department.

(3) When a secondary MCL violation occurs, the owner shall ensure that the department is notified and that action is taken as directed by the department.

(4) The department shall determine the follow-up action when a substance not included in this chapter is detected.

NEW SECTION

WAC 246-291-320 Bacteriological. (1) Owners shall ensure the collection and submittal of a sample for coliform analysis at least once every twelve months from the furthest end of the distribution system or as directed by the department.

(2) When coliform bacteria are present in any sample the owner shall ensure that:

- (a) The sample is analyzed for fecal coliform or E. coli;
- (b) The department is notified in accordance with WAC 246-291-260; and
- (c) Further action is taken as directed by the department.

(3) MCLs.

(a) MCLs under this subsection shall be considered primary standards.

(b) An MCL violation for coliform bacteria occurs when a routine and repeat sample have coliform presence.

(c) In determining MCL compliance, the owner shall:

(i) Include:

- (A) Routine samples; and
- (B) Repeat samples.

(ii) Not include:

- (A) Invalidated samples; and
- (B) Special purpose samples.

NEW SECTION

WAC 246-291-330 Inorganic chemical and physical.

(1) Monitoring.

(a) A complete inorganic chemical and physical analysis shall consist of the primary and secondary chemical and physical standards.

(i) Primary chemical and physical standards are antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate (as N), nitrite (as N), selenium, sodium, thallium, and turbidity.

(ii) Secondary chemical and physical standards are chloride, color, hardness, iron, manganese, silver, specific conductivity, sulfate*, total dissolved solids*, and zinc.

*Required only when specific conductivity exceeds seven hundred micromhos/centimeter.

(b) Samples taken for inorganic chemical analyses shall be collected at the source before treatment.

(c) Owners shall ensure submittal of at least one initial complete analysis from each source or well field;

(d) After the initial complete analysis, owners shall ensure submittal to the department of results of at least one nitrate sample analyzed from each source or well field every thirty-six months; and

(e) When treatment is provided for one or more inorganic chemical or physical contaminants, samples shall be taken for the specific contaminant or contaminants before and after treatment. The department shall determine the frequency of sampling.

(2) Follow-up. When an initial analysis of a substance exceeds the MCL, the owner shall ensure that at least one additional sample is immediately taken from the same sampling point and analyzed for any substance which

exceeded the MCL. If the average of the samples exceeds the MCL, a violation is confirmed.

(3) MCLs. The primary and secondary MCLs are listed in Tables 1 and 2:

**Table 1
INORGANIC CHEMICAL CHARACTERISTICS**

Substance	Primary MCLs (mg/L)
Antimony	0.006
Arsenic	0.05
Barium	2.0
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide	0.2
Fluoride	4.0
Mercury	0.002
Nickel	0.1
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	*
Thallium	0.002

Substance Secondary MCLs (mg/L)

Chloride (Cl)	250.0
Fluoride (F)	2.0
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO ₄)	250.0
Zinc (Zn)	5.0

Note: Although the state board of health has not established an MCL for sodium, there is enough public health significance connected with sodium levels to require inclusion in inorganic chemical and physical monitoring.

**Table 2
PHYSICAL CHARACTERISTICS**

Substance	Primary MCL
Turbidity	1.0 NTU

Substance	Secondary MCLs
Color	15 Color Units
Hardness	None established
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

NEW SECTION

WAC 246-291-340 Turbidity. (1) The department shall determine monitoring requirements on a case-by-case basis. New surface water and GWI sources shall comply with applicable turbidity monitoring requirements in accordance with Part 6 of chapter 246-290 WAC.

(2) MCLs.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for turbidity are:

(i) 1.0 NTU, based on a monthly average of the maximum daily turbidity, where the maximum daily turbidity is defined as the average of the:

PERMANENT

- (A) Highest two hourly readings over a twenty-four-hour period when continuous monitoring is used; or
 (B) Daily grab samples taken within one hour when daily monitoring is used.

The department may increase the MCL to 5.0 NTUs if the owner can show the source is within a controlled watershed and the source meets the requirements under WAC 246-291-110.

- (ii) 5.0 NTUs based on an average of the maximum daily turbidity for two consecutive days.

NEW SECTION

WAC 246-291-350 Other substances. (1) In areas known or suspected of being contaminated with other substances of public health concern, the department may require that an owner submit water samples to test for the suspected contamination at a frequency determined by the department.

(2) The department may require repeat samples for confirmation of results.

(3) Any substance confirmed in a water system that does not have an MCL listed in this chapter shall be subject to the MCLs, state advisory levels (SALs) and other provisions found in chapter 246-290 WAC.

NEW SECTION

WAC 246-291-360 Public notification. (1) Responsibility. Within fourteen days of the violation, the owner shall ensure that water system users are notified when the system has a violation of a primary MCL.

(2) Content. Notices shall provide:

- (a) A clear, concise, and simple explanation of the violation;
 (b) Discussion of potential adverse health effects and any segments of the population that may be at higher risk;
 (c) A list of steps the owner has taken or is planning to take to remedy the situation;
 (d) A list of steps the consumer should take, including advice on seeking an alternative water supply if necessary;
 (e) The owner's and manager's names and phone numbers; and
 (f) When appropriate, notices shall be multilingual.

The owner may provide additional information to further explain the situation.

(3) Distribution. Owners shall ensure that a written notice is distributed to all water system users within fourteen days of a violation unless otherwise directed by the department.

(4) When circumstances dictate the owner give a broader or more immediate notice to protect public health, the department may require notification by whatever means necessary.

(5) When a system is granted a waiver for reduction of water quality standards, the owner shall ensure that customers are notified. The owner shall provide a notice annually and send a copy to the department.

NEW SECTION

WAC 246-291-370 Severability. If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances, shall not be affected.

WSR 94-14-006
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed June 23, 1994, 1:42 p.m.]

Date of Adoption: June 17, 1994.

Purpose: Update rules to reflect recent statutory and policy changes.

Citation of Existing Rules Affected by this Order: Amending WAC 250-40-020, 250-40-040, 250-40-050, and 250-40-070.

Statutory Authority for Adoption: RCW 28B.12.020 through 28B.12.070.

Pursuant to notice filed as WSR 94-09-058 on April 20, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 22, 1994

Elson S. Floyd

Executive Director

Chapter 250-40 WAC
((COLLEGE)) STATE WORK-STUDY PROGRAM

AMENDATORY SECTION (Amending Order 6-74, filed 9/17/74)

WAC 250-40-020 Purpose. The purpose of this act is to provide financial assistance to needy students, including needy students from middle-income families, attending eligible postsecondary institutions in the state of Washington by stimulating and promoting their employment; and to provide such needy students, wherever possible, with employment related to their academic or vocational pursuits.

AMENDATORY SECTION (Amending WSR 93-20-044, filed 9/29/93, effective 10/30/93)

WAC 250-40-040 Student eligibility and selection.

(1) Eligibility criteria. In order to be eligible for employment under this program the student must:

(a) Demonstrate financial need.

(b) Be enrolled or accepted for enrollment as at least a half-time undergraduate, graduate or professional student or be a student under an established program designed to qualify him or her for enrollment as at least a half-time student at an eligible institution of postsecondary education.

(c) Be capable, in the opinion of the institution, of maintaining good standing in a course of study while employed under the program, and demonstrate satisfactory progress toward degree or certificate completion.

(d) Not be pursuing a degree in theology.

(e) Not owe a refund or repayment on a state or federal financial aid grant program and not be in default on a loan

made, insured, or guaranteed under federal and state financial aid loan programs.

(2) Criteria for institutional determination of financial need and the making of awards.

(a) Standard budgetary costs will be determined by the institution subject to approval by the higher education coordinating board.

(b) Total applicant resources shall be determined in accordance with the federal methodology system of need analysis. Institutional financial aid officers may make reasonable adjustments to the computed total applicant resources if individual circumstances warrant such adjustments. Any adjustments must be documented and placed in the student's financial aid records.

(c) The work-study award shall be designed in such a manner that the sum total of financial aid awarded any one student will not exceed the difference between the total applicant's resources and the budgetary cost of education.

(d) Each institution must have a policy relating to the continuance of aid for students who enroll in but do not complete the number of credit or clock hours required to maintain satisfactory progress toward completion of his or her degree or program objective. The institution must submit its policy to the board annually for approval.

(3) Priorities in placing students.

~~(a) ((The institution must, wherever possible, place students in positions which are related to their educational goals or career interests. At the time of job placement, the student who is able to obtain course or career objective-related employment shall be awarded in favor of one who is not able to obtain such employment.~~

~~(b) At the time of job placement, and after consideration of (a) above, no eligible Washington resident shall be excluded in favor of a nonresident.~~

~~(c) It is the intent of the work-study program to assist those students from moderate income family backgrounds whose total applicant resources are insufficient to cover the total budgetary costs of education; and who, but for this program, would normally be forced to rely heavily on loans.) Provide work opportunities for students who are defined to be residents of the state;~~

(b) After consideration of (a) of this subsection, then provide job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements wherever appropriate; and

(c) Whenever appropriate, provide opportunities for off-campus community service placements.

(4) Job placements are encouraged in occupations that meet Washington's economic development goals especially those in international trade and international relations.

AMENDATORY SECTION (Amending WSR 93-20-044, filed 9/29/93, effective 10/30/93)

WAC 250-40-050 Restrictions on student placement and compensation. (1) Displacement of employees. Employment of state work-study students may not result in displacement of employed workers or impair existing contracts for services.

(a) State work-study students employed by public institutions of postsecondary education may not fill positions currently or formerly occupied by classified employees.

(b) In cases of governmental employment, state work-study students may fill positions which have been previously occupied but were vacated as a result of implementing previously adopted reduction in force policies in response to employment limitations imposed by federal, state or local governments.

(c) In all other cases, state work-study students may not fill positions which have been occupied by regular employees during the current or prior calendar or fiscal year.

(2) Rate of compensation. All work-study positions shall receive compensation equal to the entry level salary of comparable nonwork-study positions.

Students employed by public postsecondary educational institutions who are filling positions which are comparable to Washington personnel resources board classified positions must be paid entry level Washington personnel resources board wages for the position unless the overall scope and responsibilities of the position indicate a higher level.

Determination of comparability must be made in accordance with state work-study program operational guidelines.

Documentation must be on file at the institution for each position filled by a state work-study student which is deemed by the institution as not comparable to a higher education personnel board position.

(3) Maximum total compensation. Earnings beyond the student's state work-study eligibility must be reported to the financial aid officer, and resulting adjustments made in the financial aid package in accordance with federal methodology. In the event that a student earns more money from state work-study employment than the institution anticipated when it awarded student financial aid, the excess is to be treated in accordance with the method specified in the state work-study operational guidelines.

(4) State share of student compensation. With the exception of board-approved off campus community service placements, the state share of compensation paid students shall not exceed 80 percent of the student's gross compensation. In the following cases the state share may be established at 80 percent: (a) When employed by state supported institutions of postsecondary education at which they are enrolled; (b) when employed as tutors by the state's common school districts; ~~((and))~~ (c) when employed in tutorial or other support staff positions by nonprofit adult literacy service providers in the state of Washington who meet guideline criteria for participation; and (d) when employed in an off-campus community service placement. The state share of compensation paid students employed by all other employers shall not exceed 65 percent of the student's gross compensation.

(5) Employer share of student compensation. The employer shall pay a minimum of 20 percent or 35 percent of the student's gross compensation as specified in subsection (4) above, plus the costs of any employee benefits including all payments due as an employer's contribution under the state workman's compensation laws, federal Social Security laws, and other applicable laws. The federal work-study program cannot be used to provide employer share of student compensation except when used for placement of students in tutorial or other support staff positions with adult literacy service providers in the state of Washington who meet guideline criteria for participation.

(6) Academic credit for state work-study employment. Students may receive academic credit for experience gained through state work-study employment.

(7) Maximum hours reimbursed. Employment of a student in excess of an average of 19 hours per week, or in the case of on-campus graduate assistants an average of 20 hours per week, over the period of enrollment for which the student has received an award or a maximum of 40 hours per week during vacation periods will not be eligible for reimbursement from state funds.

A student may not be concurrently employed in the same position by the state work-study program and the federal work-study program and exceed the 19 hours per week average.

~~((Further, the student cannot accept other on-campus employment which results in a waiver of the nonresident tuition and fees differential under RCW 28B.15.014.))~~

(8) Types of work prohibited. Work performed by a student under the state work-study program shall not be sectarian related and shall not involve any partisan or nonpartisan political activity.

(9) Relationship to formula staffing percentage. Placement of state work-study students in on-campus positions at public postsecondary educational institutions may not result in a level of employment in any budget program in excess of a formula staffing percentage specifically mandated by the legislature.

AMENDATORY SECTION (Amending WSR 93-20-044, filed 9/29/93, effective 10/30/93)

WAC 250-40-070 Administration. With the assistance of an advisory committee, the higher education coordinating board shall administer the work-study program. The staff of the higher education coordinating board under the direction of the executive director will manage the administrative functions relative to the program and shall be authorized to enter into agreement with:

Eligible public institutions for the placement of students and the reimbursement of employers for the state share of the student's compensation.

Eligible private institutions for the placement of students.

Employers of students attending eligible private institutions for the reimbursement of the state share of the student's compensation. Such agreements shall be written to ensure employer compliance with the rules and regulations governing the work-study program.

(1) Responsibility of eligible public institutions. The institution will:

(a) Assist the board in contracting with eligible employers or, enter into contracts with eligible organizations for employment of students under the work-study program. Such agreements shall be written to ensure employer compliance with the rules and regulations governing the work-study program.

(b) Determine student eligibility and arrange for placement.

(c) Arrange for payment of the state share of the student's compensation.

(2) Responsibility of eligible private institutions. The institution will:

(a) Assist the board in contracting with eligible employers.

(b) Determine student eligibility, arrange for placement with employers, and notify the board of such placement.

(c) Submit student time sheets to the board in the prescribed manner and time frame outlined in guidelines.

(3) Employer responsibilities:

(a) Before it may participate in the program, an eligible employer must enter into agreement with the higher education coordinating board or a public institution acting as its agent, thereby certifying its eligibility to participate and its willingness to comply with all program requirements.

(b) Certification of payment to students by the eligible organization shall be made under oath in accordance with RCW 9A.72.085.

(c) Submit student time sheets to the institution in a timely manner.

(4) Advisory committee. The board will appoint an advisory committee ~~((composed of representatives of eligible institutions, employee organizations having membership in the classified service of the state's institutions of postsecondary education, a student and persons as may be necessary))~~ which may include, but need not be limited to, representatives of public and private community colleges, technical colleges, and four-year institutions of higher education; vocational schools; students; community service organizations; public schools; business; and labor. When selecting members of the committee, the board will consult with institutions of higher education, the state board for community and technical colleges, the work force training and education coordinating board, and appropriate associations and organizations. The committee shall be convened to advise the board staff on matters pertaining to the development and the administration of the work-study program. In addition, representatives from postsecondary educational advisory and governing bodies will be invited to participate in advisory committee meetings when annual institutional allocations are being determined.

(5) Institutional administrative allowance. Contingent upon funds being made available to the higher education coordinating board for the operation of the work-study program, the public institutions will be provided an administrative expense allowance. In order to qualify for the allowance, the institution must demonstrate that financial support for student financial aid administration, exclusive of the administrative allowance, is at least equal to the level of support provided during the previous fiscal year.

(6) Institutional maintenance of effort. State funds provided under this program are not to be used to replace institutional funds which would otherwise be used to support student employment.

(7) Reports. The higher education coordinating board will obtain periodic reports on the balance of each institution's work-study funds to ensure a proper distribution of funds among institutions. In addition, information will be gathered subsequent to the end of the academic year, describing the population served and the modes of packaging used.

(8) Agreement to participate. In order to participate in the program, each institution must file an agreement to participate indicating agreement to abide by all program rules, regulations, and guidelines and to maintain and

provide all pertinent information, records, and reports requested by the board.

(9) Appeals. If the board is notified of any possible violations of these rules and regulations, satisfactory resolution shall be attempted by board staff. If satisfactory resolution cannot be achieved by board staff, the advisory committee authorized by WAC 250-40-070(5) shall review the appeal and make a recommendation to board staff. If satisfactory resolution still cannot be achieved, the person or institution initiating the appeal may request a hearing with the board, which shall take action on the appeal.

(10) Program reviews. The higher education coordinating board will review institutional administrative practices to determine institutional compliance with rules and regulations and program guidelines. If such a review determines that an institution has failed to comply with program rules and regulations and guidelines the board may suspend, terminate, or place conditions upon the institution's participation in the program and require the institution to reimburse the students affected or the program in the appropriate amount.

WSR 94-14-007
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed June 23, 1994, 1:44 p.m.]

Date of Adoption: June 17, 1994.

Purpose: Revises the residency requirement of the Washington scholars selection procedure. The legislative district is redefined as that district within which the scholar resides rather than the district in which the high school is located.

Citation of Existing Rules Affected by this Order:
 Amending WAC 250-66-030.

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Other Authority: ESSHB 2605, Laws of 1994.

Pursuant to notice filed as WSR 94-09-060 on April 20, 1994.

Effective Date of Rule: Thirty days after filing.

June 20, 1994
 Elson S. Floyd
 Executive Director

AMENDATORY SECTION (Amending WSR 92-16-038, filed 7/30/92)

WAC 250-66-030 Nomination and selection of Washington state scholars. (1) Number of students to be nominated. Each principal of a public or private approved Washington high school is encouraged to nominate one percent of the senior class (twelfth grade) based on the October 1 enrollment count of the previous year.

(2) Selection committee. Following the receipt of all nomination forms, the higher education coordinating board shall convene a selection committee which shall have members representing public and private secondary and postsecondary education institutions, state agencies, and private sector associations. This selection committee shall

review all nominations based upon selection criteria which shall include, but not be limited to, academic excellence, leadership ability, and community contributions.

(3) Selection. The Washington state scholar selection committee will then select the top three (~~(graduating)~~) seniors residing in each legislative district who are graduating from high schools ((in each legislative district)) in the state to be designated as Washington state scholars.

(4) Notification. After the final selections have been made, the higher education coordinating board shall notify the students so designated, their high school principals, the legislators of their respective districts, and the governor.

(5) Certificates and awards ceremony. The board, in conjunction with the governor's office, shall prepare appropriate certificates of recognition to be presented to the Washington state scholars recipients. An awards ceremony at an appropriate time and place shall be planned by the board in cooperation with the Washington association of secondary school principals.

(6) Receipt of award. Washington state scholars shall be deemed to have received their awards effective the date of notification. This is in contrast to the receipt of award benefits which may accrue to Washington state scholars recipients in the form of tuition and fee waivers and grants, and which shall be deemed to be received by the individual recipients on a term-by-term basis at the time the award benefit is used for undergraduate coursework.

WSR 94-14-008
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD

[Filed June 23, 1994, 1:48 p.m., effective June 23, 1994]

Date of Adoption: June 17, 1994.

Purpose: Establish procedures for payment of the recognition award benefit and conversion options for academic grant recipients interested in converting to the recognition award.

Citation of Existing Rules Affected by this Order:
 Amending WAC 250-78-010 through 250-78-060.

Statutory Authority for Adoption: Chapters 28B.80 and 28A.625 RCW.

Other Authority: SB 6074, Laws of 1994.

Pursuant to notice filed as WSR 94-09-061 on April 20, 1994.

Changes Other than Editing from Proposed to Adopted Version: Minor editorial changes only.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: SB 6074, Laws of 1994, state that the effective date shall be April 1, 1994, due to the necessity of the act for the "immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions . . ."

Effective Date of Rule: Immediately.

June 20, 1994
 Elson S. Floyd
 Executive Director

PERMANENT

AMENDATORY SECTION (Amending WSR 92-16-037, filed 7/30/92)

WAC 250-78-010 Purpose. The Washington award for excellence in education program, also known as the Washington state Christa McAuliffe award program, was established to recognize teachers, principals, administrators, classified employees, school district superintendents, and school boards for their leadership, contributions, and commitment to education. The purpose of this chapter is to establish administrative procedures for disbursing academic grants (~~(awarded)~~) and recognition awards provided to recipients through this program (~~(to teachers, classified employees, principals, and administrators)~~).

AMENDATORY SECTION (Amending WSR 92-16-037, filed 7/30/92)

WAC 250-78-020 Authority to administer. The authority for this chapter is 28B.80 RCW which authorizes the higher education coordinating board to adopt rules relating to the administration of programs assigned to the board, and 28A.625 RCW, which assigns to the board the administration of the academic grants awarded through the Washington award for excellence in education (Christa McAuliffe) academic grant award program. The 1991 legislation (~~(corrects)~~) corrected inequities inherent in the related preceding tuition waiver program by creating an academic cash grant in lieu of a tuition and fee waiver. Not all institutions awarded the waiver; ~~(;) thus,~~ some recipients received a benefit while others did not. Legislation enacted in 1994 created the recognition award to replace all other award options available under this program for recipients of the Washington award for excellence in education named by the office of the superintendent of public instruction after January 1, 1994. For academic grant recipients named by the office of the superintendent of public instruction prior to January 1, 1994, the 1994 legislation further provides for the conversion of the academic grant benefit to the recognition award, at the discretion of the recipient and contingent upon funds availability. These regulations are intended not only to implement the new legislative changes but also to provide continued benefits to those previously granted the award.

AMENDATORY SECTION (Amending WSR 92-16-037, filed 7/30/92)

WAC 250-78-030 Definitions. (1) "Institution of higher education" or "institution" shall mean:

(a) Any public university, college, community college, or technical college operated by the state of Washington or any political subdivision thereof; or any other university, college, school, or institute in the state of Washington offering instruction beyond the high school level which is a member institution of the northwest association of schools and colleges; and providing such institution agrees to participate in the program in accordance with all applicable rules and regulations. Any institution, branch, extension, or facility operating within the state of Washington which is affiliated with an institution operating in another state must be a separately accredited member institution of the northwest association of schools and colleges or another regional accrediting association.

(b) Any other university, college, school, or institute located in another state offering instruction beyond the high school level which is a member institution of a regional accrediting association or otherwise approved by the board in accordance with WAC 250-78-050 (6)(a) or (b); or

(c) Any other university, college, school, or institute located in another country outside of the United States of America offering instruction beyond the high school level which in the judgment of the board meets academic standards comparable to those established by a regional accrediting association.

(2) "Academic grant" shall mean the monetary award which shall be used to take courses at an institution of higher education. The academic grant shall be used to pay for actual costs incurred for tuition and fees only, up to the maximum value of the award as defined in WAC 250-78-050. The academic grant award option is available only to individuals named by the office of the superintendent of public instruction as recipients of the Washington award for excellence in education prior to January 1, 1994.

(3) "Board" means the higher education coordinating board. When a duty or responsibility of the board is referenced in these regulations, the authority needed to discharge that responsibility lies with the executive director or his or her designee.

(4) "Recipient" means (~~(a teacher, classified employee, principal, or administrator)~~) an individual who has been designated to receive the Washington award for excellence in education by the superintendent of public instruction ~~(;)~~ prior to January 1, 1994 and who has elected to receive his or her award in the form of the academic grant, or an individual or school board designated by the office of the superintendent of public instruction after January 1, 1994 to receive the recognition award.

(5) "Academic year" shall mean two semesters or three quarters of full-time graduate coursework.

(6) "Stipend" shall mean an amount not to exceed one thousand dollars, payable only to cover costs incurred in taking courses for which a tuition and fee waiver was authorized under pre-existing law (RCW 28A.625.020 (3)(a)). Award recipients named after May 17, 1991 shall be entitled to receive a stipend for costs incurred in taking courses covered by the academic grant only if funds are specifically appropriated for stipends under this program.

(7) "Recognition award" shall mean the cash award provided to teachers, classified employees, principals, administrators, school district superintendents, and school boards named by the office of the superintendent of public instruction as recipients of the Washington award for excellence in education after January 1, 1994. An academic grant recipient named prior to January 1, 1994 may receive the recognition award by electing to convert the remaining value of his or her academic grant and related stipend benefit, if any, to the recognition award according to rules defined under WAC 250-78-050.

AMENDATORY SECTION (Amending WSR 91-20-070, filed 9/26/91)

WAC 250-78-040 Eligibility to participate. (1) Each year, the higher education coordinating board shall receive from the superintendent of public instruction, or his or her

designee, an official list of the names of the ~~((current-year))~~ Washington award for excellence in education (Christa McAuliffe) recipients ~~((who have elected to receive the academic grant))~~ who have been designated for the current year.

(2) The superintendent of public instruction, or his or her designee, shall provide the higher education coordinating board with an official list of the names of Washington award for excellence in education (Christa McAuliffe) recipients who were awarded the waiver of forty-five quarter or thirty semester credits of tuition and fees under RCW 28B.15.547 prior to May 17, 1991.

(3) Academic grant recipients ~~((Recipients))~~ may not use the academic grant for any courses that include any religious worship or exercise, or for any degree in religious, seminarian, or theological academic studies.

(4) On and after May 17, 1991, individual benefits under this program for the academic grant and related stipend, if applicable, must be fully utilized and courses completed within four years of the date of official notification of the award recipient's selection and receipt of the academic grant, as provided by the superintendent of public instruction, or his or her designee, to the higher education coordinating board.

(5) Recipients must agree to comply with all conditions of the award and provide documentation to the board as necessary for proper administration of the ~~((academic grant))~~ program.

AMENDATORY SECTION (Amending WSR 93-19-015, filed 9/2/93)

WAC 250-78-050 Award amount. (1) Recipients of the Washington award for excellence in education named by the office of the superintendent of public instruction prior to January 1, 1994 may elect to receive their award in the form of the academic grant. The academic grant shall be used to reimburse recipients for actual costs of tuition and fees up to a maximum of forty-five quarter or thirty semester credit hours. The rate of reimbursement per credit hour shall not exceed the resident, graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credit.

(2) Recipients who were awarded the tuition/fee waiver benefit for forty-five quarter or thirty semester credits prior to May 17, 1991 shall receive the remaining value of the tuition/fee waiver in the form of the academic grant. Conversion of the tuition/fee waiver to the value of individual recipient academic grants shall be calculated as a ratio of available (unused) credits remaining in the tuition/fee waiver benefit to the total credits originally awarded.

(3) Consistent with terms of prior law, academic grant recipients who received notification of their award by the office of the superintendent of public instruction prior to May 17, 1991 may be eligible to receive a stipend not to exceed one thousand dollars for costs incurred in taking courses covered by the academic grant.

(4) ~~((Recipients))~~ Academic grant recipients who received notification of their award by the office of the superintendent of public instruction after May 17, 1991 and before January 1, 1994 may be eligible to receive a stipend not to exceed one thousand dollars for costs incurred in

taking courses covered by the academic grant only if funds are specifically appropriated for stipends under this program.

(5) Washington private colleges and universities may elect to participate in the program.

(a) ~~((Award))~~ Academic grant recipients attending Washington private colleges and universities may receive ~~((an academic))~~ the grant, provided the following additional criteria are met~~((:))~~:

(i) The institution elects to participate in the program; and

(ii) The institution matches the amount of the academic grant received by the recipient from the state on at least a dollar-for-dollar basis, either with actual money or by waiver of fees. If the institution chooses to match the academic grant with actual cash rather than by waiver of tuition/fees, the institutional match shall consist of dollars derived from institutional grant aid funds.

(b) The maximum reimbursement payable per credit by the state to a recipient attending a Washington private institution under the academic grant shall be calculated as the lesser of one of the following amounts:

(i) One-half of the recipient's cost of tuition/fees for that academic term; or,

(ii) The resident, graduate, part-time cost per credit hour for tuition/fees at the University of Washington for an equivalent number of allowable credits in the year the recipient takes the credit; and,

(iii) Not to exceed the maximum value of credits remaining in the recipient's academic grant award; and,

(iv) Not to exceed the dollar value provided by the institution to match the state portion of the academic grant.

(c) Any academic grant recipient who received notification of his or her award by the office of the superintendent of public instruction prior to May 17, 1991 has a vested right to the one thousand dollar stipend, including those recipients who elect to attend a private institution. ~~((Award))~~ Academic grant recipients named by the office of the superintendent of public instruction after May 17, 1991 shall be entitled to receive payment of the stipend only if funds are specifically appropriated for stipends under this program. However, private institutions are not required to match the amount of the stipend.

(6) ~~((Award))~~ Academic grant recipients who elect to use the ~~((academic))~~ grant for courses at a public or private higher education institution in another state or country may receive ~~((an academic))~~ the grant, provided the following additional criteria are met:

(a) The institution has an exchange program with a public or private higher education institution in Washington and the exchange program is approved or recognized by the higher education coordinating board; or

(b) The institution is approved or recognized by the higher education coordinating board; and

(c) The recipient of the Washington award for excellence in education (Christa McAuliffe) academic grant has submitted in writing to the higher education coordinating board an explanation of why the preferred course or courses are not available at a public or private institution in Washington.

(7) Teachers, principals, administrators, superintendents employed by second class school districts, and classified employees who are designated to receive the Washington

award for excellence in education by the office of the superintendent of public instruction after January 1, 1994 shall receive a recognition award with a value of at least two thousand five hundred dollars.

(8) Superintendents employed by first class school districts who are designated to receive the Washington award for excellence in education by the office of the superintendent of public instruction after January 1, 1994 shall receive a recognition award with a value of at least one thousand dollars.

(9) School boards which are designated to receive a Washington award for excellence in education by the office of the superintendent of public instruction after January 1, 1994 shall receive a recognition award not to exceed two thousand five hundred dollars. The school board must use its recognition award for an educational purpose.

(10) Recipients of the Washington award for excellence in education named by the office of the superintendent of public instruction prior to January 1, 1994, who elected to receive the award in the form of the academic grant, may convert the remaining value of the academic grant to the recognition award, at their discretion and contingent upon funds availability. In addition, recipients named prior to May 17, 1991 may have the remaining value of the stipend for related educational expenses added to their converted academic grant.

(a) At a minimum, conversion of the academic grant to the recognition award shall be calculated as a ratio of available (unused) credits remaining in the academic grant benefit to the maximum number of credit hours originally awarded in the academic grant (forty-five quarter or thirty semester credit hours). This ratio shall be multiplied by the full value of the recognition award in the fiscal year the conversion option is exercised to determine the dollar value of the recipient's converted academic grant award.

(b) The converted award value of the academic grant shall not exceed the value of the current year's recognition award plus the converted value of any remaining stipend for related educational expenses that the recipient is eligible to receive.

(c) Stipend benefits for related educational expenses may be converted only in conjunction with the academic grant, unless the recipient's remaining award value resides solely in the stipend benefit. In that event, the stipend value may be separately converted to the recognition award.

(d) Academic grant recipients who have fully utilized the value of the academic grant (forty-five quarter or thirty semester credits) and the related stipend, if applicable, or whose four year eligibility period for use of the academic grant as defined in WAC 250-78-040(4) has expired, are not eligible to retroactively convert the academic grant to a recognition award.

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 93-19-015, filed 9/2/93)

WAC 250-78-060 Management of funds. (1) Disbursements of all academic grant, (~~grant and~~) stipend, and recognition award funds are contingent upon appropriations. In the event that funds are insufficient to pay all eligible (~~reimbursement~~) claims submitted, disbursements will be issued to recipients on the following basis:

(a) (~~Claims for reimbursement of eligible educational costs shall be paid, in order of receipt by the board, up to the value remaining in the recipient's academic grant or stipend benefit, and to the extent of available funds.~~) Claims for payment of the recognition award, or reimbursement of eligible educational costs through the academic grant or stipend, shall be paid in order of receipt by the board and to the extent of available funds, up to the value remaining in the recipient's award benefit.

(b) Claims for payment of a recipient's eligible award benefits (~~reimbursement of eligible educational costs~~) which have not been paid in full shall become first priority for payment, in order of receipt by the board, up to the value remaining in the recipient's (~~academic grant or stipend~~) award benefit, as funds become available to the program through:

- (i) Supplemental moneys appropriated to the program for the current fiscal year; or,
- (ii) Funds appropriated to the program for the next fiscal year; or
- (iii) Funds appropriated to the program for subsequent biennia.

(2) At the option of the board, the academic grant may be disbursed as a lump sum award or in incremental amounts on a term by term basis.

(3) Recipients who have not fully utilized their academic grant award benefit (and related stipend benefit, if any) within the four year eligibility period shall forfeit the remaining value of their academic grant and stipend award.

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 94-14-010
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket TL-940124, Order R-416—Filed June 23, 1994, 3:30 p.m.]

In the matter of amending WAC 480-35-040, 480-35-080, 480-35-090, 480-35-100, 480-35-110 and 480-35-120, relating to limousine charter party carriers': Applications, operation of motor vehicles, equipment, registered carrier requirements, registration of interstate authority, and identification decals.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-10-071, filed with the code reviser on May 3, 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 94-10-071, for 9:00 a.m., Wednesday, June 8, 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 May 25, 1994.

By letter from the commission secretary, dated June 6, 1994, the commission rescheduled this matter for oral comment and adoption for 9:00 a.m., Wednesday, June 22, 1994. The letter provided interested persons the opportunity to submit written comments to the commission until June 20, 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 June 22, 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 480-35-040, 480-35-080, 480-35-090, 480-35-100, 480-35-110, and 480-35-120 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 480-35-040, 480-35-080, 480-35-090, 480-35-100, 480-35-110, and 480-35-120 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 22nd day of June, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

AMENDATORY SECTION (Amending Order R-312, Docket No. TL-2294, filed 11/13/89, effective 12/14/89)

WAC 480-35-040 Applications. (1) All applications for certificates or registration shall be on forms to be furnished by the commission, giving all information therein requested, ~~((sworn to before a notary))~~ certified, and accom-

panied by a filing fee named in subsection (2) of this section.

(2) Miscellaneous fees:

Original application for certificate	\$150.00
Application for extension of certificate	150.00
Application to sell, lease, mortgage, or transfer a certificate	150.00
Application for issuance of duplicate certificate	5.00
((Application for registration	25.00))

(3) All applications for the issuance of a duplicate certificate must be accompanied by affidavit of the holder thereof setting forth that the original certificate has been lost or destroyed.

(4) Remittances shall be made by money order, bank draft, or check made payable to the Washington utilities and transportation commission.

AMENDATORY SECTION (Amending Order R-312, Docket No. TL-2294, filed 11/13/89, effective 12/14/89)

WAC 480-35-080 Operation of motor vehicles. (1)

All motor vehicles shall be operated in accordance with the requirements of existing state laws and no chauffeur 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 chauffeurs—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 383, Part 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) ~~((as well as and including all appendices and amendments thereto))~~, in effect on January 1, ~~((1989))~~ 1994, are adopted and prescribed by the commission to be observed by all limousine charter party carriers of passengers operating under chapter ~~((283, Laws of 1989))~~ 81.90 RCW, except for, to those limousine charter party carriers operating exclusively in intrastate commerce:

(a) 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.

(b) 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) 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, ~~((as well as and including all appendices and amendments thereto))~~ in effect on January 1, ~~((1989))~~ 1994, are adopted and prescribed by the commission to be observed by all limousine charter party carriers of passengers operating under chapter ~~((283, Laws of 1989))~~ 81.90 RCW.

(4) Accidents occurring in this state arising from or in connection with the operations of any limousine charter party

PERMANENT

carrier of passengers operating under chapter (~~283, Laws of 1989~~) 81.90 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 subsection, shall be maintained in the main office of the carrier subject to inspection by the commission.

(5) 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 (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

AMENDATORY SECTION (Amending Order R-312, Docket No. TL-2294, filed 11/13/89, effective 12/14/89)

WAC 480-35-090 Equipment—Safety. In addition to other laws and regulations of this state, all motor vehicles operating under chapter (~~283, Laws of 1989~~) 81.90 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 (~~390.17, Part~~) 392, (~~excluding paragraph (c) of section 392.1;~~) Part 393, (~~excluding paragraph (b) of section 393.1, and sections 393.13, 393.14, 393.15, 393.16, 393.76, 393.100, 393.102, 393.104, 393.106;~~) 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 paragraph (b) of section 396.1; Part 397, excluding section 397.21 and paragraph (e) of section 397.1;~~) as well as and including all appendices and amendments thereto, in effect on January 1, (~~1989~~) 1994, are adopted and prescribed by the commission to be observed by all limousine charter party carriers of passengers operating under chapter (~~283, Laws of 1989~~) 81.90 RCW. Exception: Limousine charter party carriers operating exclusively in intrastate commerce shall not be subject to those provisions of Parts 392, 393 and 396 which are specifically applicable to heavy vehicles (over 10,000 gross vehicle weight) or to buses with seating capacity greater than sixteen passengers (excluding the driver).

(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) The federal rules referenced in this chapter are available for inspection at the utilities and transportation branch of the Washington state library, located in conjunc-

tion with the commission's headquarters office. Copies may be obtained upon request from the secretary of the commission, subject to any pertinent charge. Copies may also be obtained from the United States government printing office, which operates a retail sales facility in Seattle, Washington.

AMENDATORY SECTION (Amending Order R-312, Docket No. TL-2294, filed 11/13/89, effective 12/14/89)

WAC 480-35-100 Registered carriers. (1) (~~Carriers engaged exclusively in interstate or foreign commerce are declared to be registered carriers. Those operating under authority issued by the Interstate Commerce Commission shall have their registration number prefixed by "L." Registered carriers need only comply with such rules and regulations as specifically refer to them or to equipment operated exclusively in interstate commerce across or between points in the state and points outside of the state.~~)

(2) By reference, the Washington utilities and transportation commission hereby adopts the rules promulgated by the National Association of Regulatory Utility Commissioners and adopted by the Interstate Commerce Commission under P.L. 89-170 and codified as Part 1023 of Title 49, Code of Federal Regulations.

(3) Registered carriers shall meet insurance requirements by filing with the Washington utilities and transportation commission a certificate of insurance or complying with the requirements of WAC 480-35-060.) It shall be unlawful for a carrier operating under authority issued by the Interstate Commerce Commission to operate a vehicle in interstate commerce on the public roads of this state without having first secured valid insurance as required by the Interstate Commerce Commission, registered with a base state as required in 49 CFR Part 1023, paid the required Washington state registration fee for that vehicle, and without having in the vehicle a legible receipt showing base state registration. The receipt shall be subject to inspection at all times by law enforcement agents and the commission's representatives.

(2) The registration fee for registered carriers in Washington state is ten dollars for each vehicle operated within the state.

(3) Washington based carriers. Washington is a participant in the base state insurance registration program established in 49 USC § 11506 and 49 CFR Part 1023. Any carrier whose base state as defined in federal regulation is Washington state shall register for interstate operations as follows:

(a) Between August 1 and November 30 of each year, each such Washington-based interstate carrier shall apply to the commission to register for the following year.

(b) The registering carrier shall state the number of vehicles to be operated in each participating state, provide other required information, and submit the registration fee established by that state for each such vehicle.

(c) The commission within thirty days will provide to the carrier a receipt or receipts showing, at a minimum, the carrier's name and address, its ICC permit number, and the names of the states for which it has registered.

(d) The carrier shall place a receipt or an authorized copy in each vehicle for which it has paid the required fee.

(e) Any Washington-based carrier that begins interstate operations in a state for which it has not registered may

register for that state at any time, stating the number of vehicles to be operated in each state and submitting the required information and registration fee for each vehicle. The commission will provide a new receipt, if the carrier has not previously registered, or a supplemental receipt, if it has registered, showing the states for which the carrier has registered.

AMENDATORY SECTION (Amending Order R-312, Docket No. TL-2294, filed 11/13/89, effective 12/14/89)

WAC 480-35-110 Registration of interstate authority. (1) It shall be unlawful for any limousine charter party carrier of passengers to perform ~~((a))~~ interstate transportation service for compensation upon the public ~~((highways))~~ roadways of this state without first having secured appropriate authority from the Interstate Commerce Commission, if such authority is required, and without ~~((first having registered such authority, if any, with the commission))~~ possessing valid insurance and valid evidence that it has registered as specified in these rules.

(2) Such registration shall be granted upon application, without hearing, upon payment of the appropriate filing fee. ~~((Applications to register ICC operating authority with the commission shall be accompanied by the fee of twenty five dollars for limousine charter party carriers of passengers who have not previously filed currently effective applications for such registration.))~~

AMENDATORY SECTION (Amending Order R-326, Docket No. TL-900359, filed 8/10/90, effective 9/10/90)

WAC 480-35-120 Identification decals—Intrastate limousine charter party carrier operations. (1) For the purpose of identification and information of the public, all motor vehicles, except short-term substitute or emergency vehicles, while being operated in intrastate commerce under certificate, shall have displayed on the vertical surface of the left side of the rear bumper, in the proximity of the license plate, a reflectorized decal to be issued by the Washington utilities and transportation commission. In the event a certificate is revoked or canceled or the equipment sold, the carrier shall immediately remove the decal from its vehicle or vehicles.

(a) Where a vehicle is permanently substituted for one that has been destroyed or has been permanently withdrawn from ownership or possession of the permittee, a replacement decal must be purchased and displayed as shown above. Cost of the replacement decal shall be three dollars.

(b) Permittees shall be allowed to rent or lease vehicles to meet short-term or emergency situations of thirty days or less. In these cases, a copy of the rental or lease agreement must be carried within the vehicle. In addition, an unassigned cab card displaying proof of payment of regulatory fees and a temporary decal shall be obtained from the commission. The unassigned cab card must be carried in the vehicle and the temporary decal must be displayed in the lower right corner of the windshield. The regulatory fee for this purpose shall be twenty dollars and the cost of the decal shall be three dollars.

(2) An application for a sufficient number of decals shall be filed with the commission, accompanied by the necessary decal and regulatory fee. New decals shall be

issued each year and the cost of the decal shall be three dollars.

(3) The annual regulatory fee shall be established by general order of the commission before November 1 of any year when circumstances so require, but the fee shall not exceed the cost of supervising and regulating such carrier.

(4) The annual decal and regulatory fee shall be collected from each limousine charter party carrier holding a certificate ~~((as well as each carrier registered with the commission and such)).~~ The fee shall be due and payable on or before December 31 of each year, to cover the ensuing year beginning February 1.

**WSR 94-14-011
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket TG-940456, Order R-419—Filed June 23, 1994, 3:32 p.m.]

In the matter of amending WAC 480-70-055, adopting the "North American Uniform Out-of-Service Criteria" and Title 49 Code of Federal Regulations; and amends WAC 480-70-400, deleting the language that excluded sections of 396.17 through 396.25 of Title 49 CFR.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-11-102, filed with the code reviser on May 17, 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 94-11-102, for 9:00 a.m., Wednesday, June 22, 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 June 10, 1994.

Written comments were presented by the commission staff.

The rule change proposals were considered for adoption at the commission's regularly scheduled open public meeting on June 22, 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 rules as noticed.

In reviewing the entire record, the commission determines that WAC 480-70-055 and 480-70-400 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 480-70-055 and 480-70-400 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rules shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 22nd day of June, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

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 391.74,)) 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 94-14-012
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket TV-940147, Order R-418—Filed June 23, 1994, 3:34 p.m.]

In the matter of amending 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.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-11-101, filed with the code reviser on May 17, 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 94-11-101, for 9:00 a.m., Wednesday, June 22, 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 June 10, 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 June 22, 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 480-149-120 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 480-149-120 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 22nd day of June, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

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~~

PERMANENT

~~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 94-14-013

PERMANENT RULES

UTILITIES AND TRANSPORTATION COMMISSION

[Docket T-940589, Order R-421—Filed June 23, 1994, 3:38 p.m.]

In the matter of amending 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).

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-11-104, filed with the code reviser on May 17, 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 94-11-104, for 9:00 a.m., Wednesday, June 22, 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 June 10, 1994.

Written comments were presented by the commission staff.

The rule change proposals were considered for adoption at the commission's regularly scheduled open public meeting

on June 22, 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 rules as noticed.

In reviewing the entire record, the commission determines that WAC 480-30-100 and 480-12-180 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 480-30-100 and 480-12-180 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rules shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 22nd day of June, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

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(~~(c)~~) 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~~(s)~~ 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.

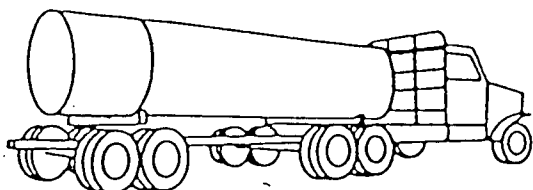
(q) Binder extensions. Pipe extension handles (swedes) for tightening or securing binders shall be limited to not longer than thirty-six inches. Care shall be taken that a sufficient amount of the pipe extends over the binder handle.

(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.

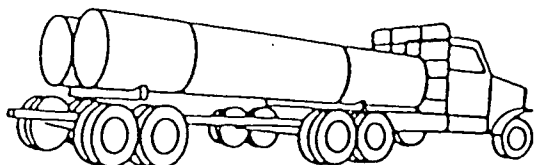
PLACEMENT AND NUMBER OF WRAPPERS

One log load



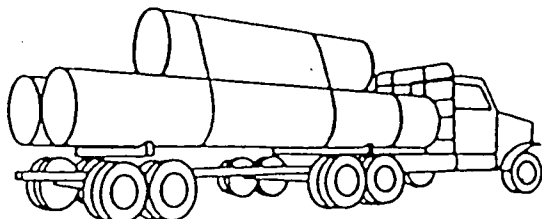
One wrapper required which shall be secured to the rear bunk. Log shall be blocked or secured in a manner to prevent it from rolling or shifting. A second wrapper secured to the front bunk is optional.

Two log load



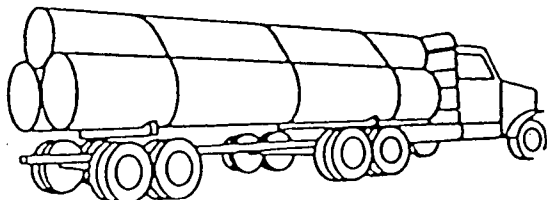
A minimum of two wrappers required. Logs shall be blocked to prevent them from rolling or shifting.

Three or four log load forty-four feet or less



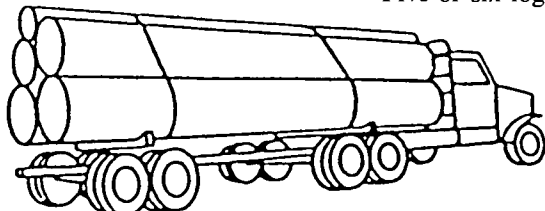
A minimum of two wrappers required.

Three or four log loads more than forty-four feet



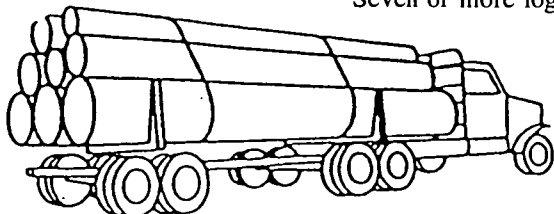
A minimum of three wrappers required.

Five or six log load all logs seventeen feet or less



A minimum of two wrappers required.

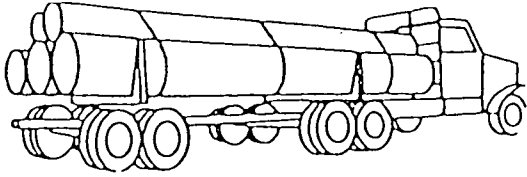
Seven or more log load all logs seventeen feet or less



A minimum of two wrappers required.

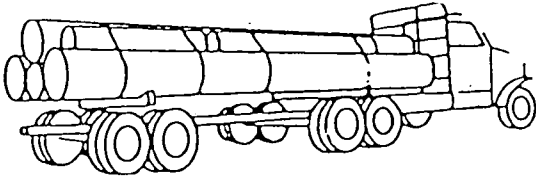
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Five or more log load if any logs are more than seventeen feet



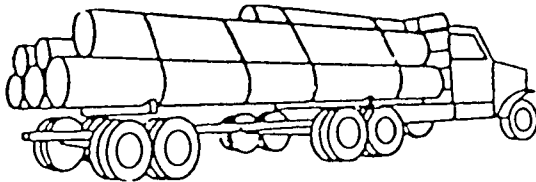
A minimum of three wrappers required.

Outside logs or top logs



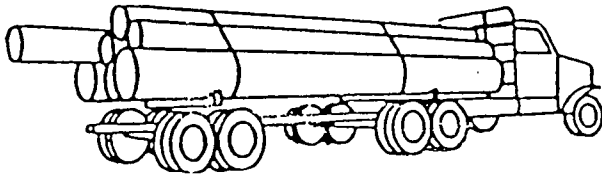
All outside or top logs shall be secured by a binder near but not within 12 inches of each end.

A wrapper shall be near each bunk



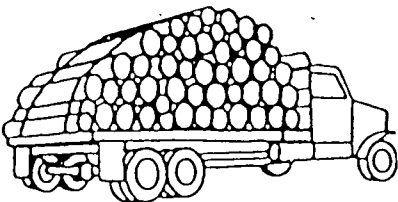
Each load shall be secured by having a wrapper within 6 feet of each bunk except on one log loads.

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 intra-state 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 94-14-014
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket T-940457, Order R-420—Filed June 23, 1994, 3:40 p.m.]

In the matter of amending WAC 480-12-083, 480-30-015 and 480-40-015, by adopting the "North American Uniform Out-of-Service Criteria" and Title 49 Code of Federal Regulations (CFR) in place of outdated versions currently referenced by the rules.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-11-103, filed with the code reviser on May 17, 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 94-11-103, for 9:00 a.m., Wednesday, June 22, 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 June 10, 1994.

Written comments were presented by the commission staff.

The rule change proposals were considered for adoption at the commission's regularly scheduled open public meeting on June 22, 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 rules as noticed.

In reviewing the entire record, the commission determines that WAC 480-12-083, 480-30-015, and 480-40-015 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 480-12-083, 480-30-015, and 480-40-015 are amended to read as set forth in Appendix A, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380.

THE COMMISSION FURTHER ORDERS That this order and the rules shown below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the code reviser for filing pursuant to chapter 34.05 RCW and chapter 1-21 WAC.

THE COMMISSION Adopts the commission staff memoranda, presented at the times the commission considered noticing and adopting this proposal, as its brief explanatory statement of the reasons for adoption, and for any variances between noticed and adopted versions, under RCW 34.05.355.

DATED at Olympia, Washington, this 22nd day of June, 1994.

PERMANENT

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

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 480-12-083 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,

**WSR 94-14-015
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION**

[Docket TC-940125, Order R-417—Filed June 23, 1994, 3:42 p.m.]

In the matter of amending WAC 480-40-070, 480-40-075, 480-40-110, 480-40-120 and 480-40-130, relating to passenger charter carriers': Operation of motor vehicles, equipment, registered carrier requirements, registration of interstate authority, and identification cards; and repealing WAC 480-40-140 relating to cab cards.

The Washington Utilities and Transportation Commission takes this action under Notice No. WSR 94-10-072, filed with the code reviser on May 3, 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 94-10-072, for 9:00 a.m., Wednesday, June 8, 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 May 25, 1994.

By letter from the commission secretary, dated June 6, 1994, the commission rescheduled this matter for oral comment and adoption for 9:00 a.m., Wednesday, June 22, 1994. The letter provided interested persons the opportunity to submit written comments to the commission until June 20, 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 June 22, 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 480-40-070, 480-40-075, 480-40-110, 480-40-120, 480-40-130, and 480-40-140 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 480-40-070, 480-40-075, 480-40-110, 480-40-120, 480-40-130, and 480-40-140 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 22nd day of June, 1994.

Washington Utilities and Transportation Commission
Sharon L. Nelson, Chairman
Richard Hemstad, Commissioner

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

WAC 480-40-070 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)) parts 382, 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 charter party carriers or excursion service carriers of passengers operating under chapter 81.70 RCW except relating to those carriers operating exclusively in intrastate commerce:~~

(a) 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.

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

(3) 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 charter party carriers or excursion service carriers of passengers operating under chapter 81.70 RCW.

(4) Accidents occurring in this state arising from or in connection with the operations of any charter party carrier or excursion service carrier of passengers operating under chapter 81.70 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.

(5) 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 (3) of this section, such designations for the purpose of this rule shall mean the "Washington utilities and transportation commission."

(6) The federal rules referenced in this chapter are available for inspection at the utilities and transportation branch of the Washington state library, located in conjunction with the commission's headquarters office. Copies may be obtained upon request from the secretary of the commission, subject to any pertinent charge. Copies may also be obtained from the United States government printing office, which operates a retail sales facility in Seattle, Washington.

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

WAC 480-40-075 Equipment—Safety. In addition to other laws and regulations of this state, all motor vehicles operating under chapter 81.70 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, and part ~~((397)) 396 are adopted and prescribed by the commission to be observed by all charter party carriers or excursion service carriers of passengers operating under chapter 81.70 RCW. Exception: All passenger charter carriers or excursion service carriers of passengers operating exclusively in intrastate commerce shall be exempt from the provisions of sections 392.2((-)) and 393.76((-, 396.17 through 396.23, and 397.24)). 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."

AMENDATORY SECTION (Amending Order R-329, Docket No. T-900076, filed 10/31/90, effective 12/1/90)

WAC 480-40-110 Registered carriers. (1) ~~((Carriers engaged exclusively in interstate or foreign commerce are declared to be registered carriers. Those operating under authority issued by the Interstate Commerce Commission~~

~~shall have their registration number prefixed by "CH" for charter or "ES" for excursion. Registered carriers need only comply with such rules and regulations as specifically refer to them or to equipment operated exclusively in interstate commerce across or between points in the state and points outside of the state.~~

~~(2) By reference, the Washington utilities and transportation commission hereby adopts the rules promulgated by the National Association of Regulatory Utility Commissioners and adopted by the Interstate Commerce Commission under PL 89-170 and codified as part 1023 of Title 49, Code of Federal Regulations.~~

~~(3) Registered carriers may meet insurance requirements by filing with the Washington utilities and transportation commission a certificate of insurance. It shall be unlawful for a carrier operating under authority issued by the Interstate Commerce Commission to operate a vehicle in interstate commerce on the public roads of this state without having first secured valid insurance as required by the Interstate Commerce Commission, registered with a base state as required in 49 CFR Part 1023, paid the required Washington state registration fee for that vehicle, and without having in the vehicle a legible receipt showing base state registration. The receipt shall be subject to inspection at all times by law enforcement agents and the commission's representatives. In the alternative, the carrier shall first purchase a valid trip permit as provided in WAC 480-40-130.~~

~~(2) The registration fee for registered carriers in Washington state is ten dollars for each vehicle operated within the state.~~

~~(3) Washington based carriers. Washington is a participant in the base state insurance registration program established in 49 USC § 11506 and 49 CFR Part 1023. Any carrier whose base state as defined in federal regulation is Washington state shall register for interstate operations as follows:~~

~~(a) Between August 1 and November 30 of each year, each such Washington-based interstate carrier shall apply to the commission to register for the following year.~~

~~(b) The registering carrier shall state the number of vehicles to be operated in each participating state, provide other required information, and submit the registration fee established by that state for each such vehicle.~~

~~(c) The commission within thirty days will provide to the carrier a receipt or receipts showing, at a minimum, the carrier's name and address, its ICC permit number, and the names of the states for which it has registered.~~

~~(d) The carrier shall place a receipt or an authorized copy in each vehicle for which it has paid the required fee.~~

~~(e) Any Washington-based carrier that begins interstate operations in a state for which it has not registered may register for that state at any time, stating the number of vehicles to be operated in each state and submitting the required information and registration fee for each vehicle. The commission will provide a new receipt, if the carrier has not previously registered, or a supplemental receipt, if it has registered, showing the states for which the carrier has registered.~~

AMENDATORY SECTION (Amending Order R-329, Docket No. T-900076, filed 10/31/90, effective 12/1/90)

WAC 480-40-120 Registration of interstate authority. (1) It shall be unlawful for any charter party carrier or excursion service carrier of passengers to perform ~~((a))~~ any interstate transportation service for compensation upon the public highways of this state without first having secured appropriate authority from the Interstate Commerce Commission, if ~~((such))~~ that authority is required, and without ~~((first having registered such authority, if any, with the commission))~~ possessing valid insurance and valid evidence that it has registered as specified in these rules.

~~(2) Such registration shall be granted upon application, without hearing, upon payment of the appropriate filing fee. ~~((Applications to register ICC operating authority with the commission shall be accompanied by the fee of twenty-five dollars for charter party carriers or excursion service carriers of passengers who have not previously filed currently effective applications for such registration.))~~~~

AMENDATORY SECTION (Amending Order R-329, Docket No. T-900076, filed 10/31/90, effective 12/1/90)

WAC 480-40-130 ~~((Identification cards.))~~ Regulatory fees—Receipt—Intrastate passenger charter carriers and excursion service carriers. (1) ~~((No motor vehicle operated by a charter party carrier or excursion service carrier of passengers upon the highways of this state shall be so operated without having available within the vehicle a valid identification card properly signed and with appropriate stamp affixed or equivalent thereof. Such identification card shall be subject to inspection by the commission's representatives at all times.~~

~~(2) An application for sufficient number of identification stamps shall be filed with the commission, accompanied by the necessary stamp and regulatory fee. The cost of the stamp shall be three dollars.~~

~~(3) The annual regulatory fee shall be established by general order of the commission but not to exceed the cost of supervising and regulating such carriers. Such fee shall be collected annually from each charter party carrier and excursion service carrier holding a certificate and from each interstate or foreign carrier subject to chapter 81.70 RCW.~~

~~(4) In lieu of the payment of a full regulatory fee for each vehicle operated upon the public highways of the state of Washington, the regulatory fee may, at the request of the carrier, be paid on the basis of the following option:~~

~~Lump sum regulatory fee payment. Carriers who operate fleets in excess of fifty motor power vehicles upon the public highways of the state of Washington may elect to pay a lump sum regulatory fee based on the number of vehicles operated during the previous year, at the regulatory fee established by general order of the commission.~~

~~(5)) Every passenger charter carrier or excursion service carrier operating in intrastate commerce shall pay an annual regulatory fee as established by general order of the commission, but not to exceed the cost of supervising and regulating such carriers. Such fee shall be collected annually from each passenger charter carrier and excursion service carrier holding a certificate.~~

~~(2) Passenger charter carriers and excursion service carriers operating in intrastate commerce shall state the~~

number of vehicles operated in this state, provide other required information and submit appropriate fees.

(3) Upon payment of annual regulatory fees, a receipt will be issued to the passenger charter carrier or excursion service carrier. The receipt will authorize passenger charter carriers or excursion service carriers to operate over the public roadways of this state. The receipt shall be subject to inspection by the commission's representatives at the carrier's principal place of business.

(4) Charter party carriers or excursion service carriers of passengers engaged exclusively in casual or occasional interstate or foreign commerce across or between points in the state and points outside the state may, as an alternative to all other requirements of this chapter, obtain a single trip transit permit, valid for ten days authorizing one trip, entering or across the state. This permit will be issued upon payment of a fee of ten dollars. The carrier must provide the name and policy number or binder of the insurance company with whom the carrier has insurance which meets the provisions of WAC 480-40-040.

~~((6) No refund will be made on unused stamps.~~

~~(7) Any "lost stamps" will be replaced only at full stamp and regulatory fee: Provided, however, That in unusual circumstances the commission may, by order, waive all or a portion of the replacement cost.~~

~~(8) Each carrier shall obtain from the Washington utilities and transportation commission or from the National Association of Regulatory Utility Commissioners a sufficient number of blank identification cab cards to satisfy its requirements.~~

~~(9) All identification cab cards and stamps issued for a particular calendar year expire January 31 of each succeeding year. However, a stamp may be issued for the ensuing calendar year on or after the first day of October preceding, and may be used from the date of issue.~~

~~(10) An identification cab card may be reassigned to a substitute vehicle (power unit) only when the original vehicle has been destroyed or is being permanently withdrawn from the ownership or possession of the permittee.)~~ (5) All receipts issued for a particular calendar year expire December 31 of each succeeding year. However, a receipt may be issued for the ensuing calendar year on or after the first day of October preceding, and may be used from the date of issue.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 480-40-140 Cards—Return required—Loss of—Improper use of cards or stamps.

WSR 94-14-016
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)
 [Order 3737A—Filed June 23, 1994, 3:55 p.m.]

Date of Adoption: June 23, 1994.

Purpose: In the proposed filing WAC 388-96-774(4), the text was correct. The department made no amendment to this section before filing for final adoption. However, the last sentence of this section was dramatically changed by what appears to be a machine malfunction. The purpose of this filing is to restore WAC 388-96-774(4) to the language of proposed filing.

Citation of Existing Rules Affected by this Order: Amending WAC 388-96-774(4).

Statutory Authority for Adoption: RCW 74.46.800.

Pursuant to notice filed as WSR 94-07-109 on March 21, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 23, 1994

Dewey Brock, Chief

Office of Vendor Services

AMENDATORY SECTION (Amending Order 3615, filed 8/11/93, effective 9/11/93)

WAC 388-96-774 Add-ons to the prospective rate ((revisions))-staffing. (1) The department shall determine each contractor's reimbursement rates prospectively at least once each calendar year, to be effective July 1st. ~~((The department shall determine all prospective reimbursement rates for 1984 and thereafter using the prior year's desk-reviewed cost reports. Prospective rates shall be maximum payment rates for contractors for the periods to which they apply.))~~

(a) The department may grant ~~((revisions))~~ a rate add-on to a nursing service (NS) or operational (OP) prospective reimbursement rate for:

~~(i) ((Inflation only as authorized under WAC 388-96-719(3)); and-~~

~~(ii) Other revisions for cost increases only as authorized in this section))~~ Variations in the distribution of patient classifications for the total resident population or changes in patient characteristics for the total resident population from:

(A) The Medicaid cost report for the calendar year immediately prior to the first fiscal year of a state biennium; or

(B) Those used to set the rate for a new contractor; or

(ii) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.

(b) The department shall not grant and the contractor shall not use rate ~~((adjustments))~~ add-ons for:

(i) ~~((Wage))~~ Compensation increases for existing, newly hired or promoted staff ~~((except as authorized in WAC 388-96-756)); ((and))~~

(ii) The use of temporary employment services providing direct patient care;

(iii) Any purpose if the nursing facility has a pending bankruptcy; unless, it is under chapter 11 and the nursing

PERMANENT

facility can provide a written evaluation from the trustee in bankruptcy stating the reorganization will be approved and implemented;

(iv) Correction of survey citations; or

(v) Staffing increases to resolve complaints.

(c) The department shall not grant a rate (~~(adjustment)~~) add-on to a cost center if that cost center is at or above the median cost limit for the facility's peer group (~~(plus the applicable percentage,)~~) reduced or increased under WAC 388-96-719.

(2) ~~((The department shall adjust rates for any capital-ized additions or replacements made as a condition for licensure or certification.~~

(3) The department may adjust rates for any of the following:

(a) Variations in the distribution of patient classifica-tions or changes in patient characteristics from:

(i) The prior reporting year; or

(ii) Those used to set the rate for a new contractor; or

(iii) Corresponding to the nursing staff funded for a new contractor.

(b) Program changes required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration; and

(c) Changes in staffing levels at a facility required by the department as evidenced by a written directive from the director of nursing home services, aging and adult services administration.

(4) Per state fiscal year, the contractor may submit no more than two requests under this section. If a request has been previously submitted and denied because it was not complete, then it will not count as a request for this subsection; provided, the resubmitted request is complete and exactly the same as the previous request, e.g., type of request, positions and full-time equivalencies.

(3) Contractors requesting ((an adjustment)) a rate add-on shall submit a written request to the ((department)) office of rates management, aging and adult services administra-tion, separate from all other requests and ((inquires {inquiries})) inquiries of the department, ((e.g. {e.g.}) e.g., WAC 388-96-904 (1) and (5). The written request shall only be submitted after the hire date of the new staff and shall include the following:

(a) A financial analysis showing:

(i) The increased cost; and

(ii) An estimate of the rate increase, computed according to allowable methods, necessary to fund the cost.

(b) A written justification for granting the rate increase; ((and))

(c) A certification and supporting documentation showing the changes in staffing have commenced((, or other commenced or completed improvements));

(d) Two proofs of hire, e.g., payroll document, W-4, and appointment letter;

(e) A written narrative describing the contractor's efforts to provide alternative solutions prior to submitting a request under this section; and

(f) A written plan specifying:

(i) Additional staff to be added;

(ii) Changes in all patient characteristics requiring the additional staff; and

(iii) The predicted improvements in patient care services that will result.

~~((5)) (4) Contractors receiving ((prospective)) rate ((increases)) add-ons per this section shall submit quarterly reports. The quarterly reports shall cover the first day the rate ((increase)) add-on is effective and show how the additional rate funds and hours were utilized. If the ((funds and/or hours were not utilized for the changes and/or improvements approved by the department in granting the adjustment, they shall be subject to immediate recovery by the department.~~

~~(6) A contractor requesting an adjustment pursuant to subsection (3)(a) of this section shall submit a written plan specifying:~~

~~(a) Additional staff to be added;~~

~~(b) Changes in all patient characteristics requiring the additional staff; and~~

~~(c) The predicted improvements in patient care services which will result. The department shall respond to such requests within sixty days following the receipt of a properly completed request.~~

~~(7)) contractor does not use the funds for the purpose for which they were granted, the department shall immedi-ately recoup the misspent or unused funds.~~

(5) In reviewing a request made under subsection (3) of this section, the department shall consider but is not limited to one or more of the following:

(a) Whether additional staff requested by a contractor is necessary to meet patient care needs;

(b) Comparisons of staffing patterns of nursing facilities from either the latest statewide metropolitan statistical area (MSA) peer group or non-MSA peer group to which the nursing facility belongs and calculated on a per patient day basis. The department shall use the latest MSA and non-MSA designations received from the office of management and budget or the appropriate federal agency;

(c) The physical layout of the facility;

(d) Nursing service planning and management for maximum efficiency;

(e) Historic trends in underspending of a facility's nursing services and operational component ((rate)) rates;

(f) Numbers, positions, and scheduling of existing staff;

(g) Increases in acuity (debility) levels of ((contractors')) all residents in the facility;

(h) Survey, ((inspection of care, and department consul-tation results)) complaint resolution reports, and quality assurance data; and

(i) The facility's ability to fund its staffing request through the facility's existing total Medicaid reimbursement rate.

~~((8) If a request made under subsection (3) of this section is approved by the department, the cost of funding the additional staff may be reduced for rate revision purposes by amounts shifted out of nursing services in 1986 or 1987, as reflected in the preliminary or final settlement reports for 1986 and 1987.~~

(9) (6) The department may also adjust rates to cover costs associated with placing a nursing home in receivership for costs not covered by the rate of the former contractor, including:

(a) Compensation of the receiver;

(b) Reasonable expenses of receivership and transition of control; and

(c) Costs incurred by the receiver in carrying out court instructions or rectifying deficiencies found.

~~((10))~~ (7) The department shall not grant a rate ~~(adjustment)~~ add-on effective earlier than sixty days prior to receipt of the initial written request ~~((for such adjustment accompanied by all related documentation and information required by this section))~~ by the office of rates management subject to the requirements of subsection (3) of this section, the department shall grant a rate add-on for an approved request as follows:

(a) If the request is received between the first day and fifteenth day of the month, then the rate will be effective on the first day of that month; or

(b) If the request is received between the sixteenth day and the last day of the month, the rate will be effective on the first day of the following month.

(8) If the initial written request is incomplete, the department will notify the contractor of the documentation and information required. The contractor must submit the requested information within fifteen days from the date the contractor receives the notice to provide the information. If the contractor fails to complete the rate add-on request by providing all the requested documentation and information within the fifteen days from the date of receipt of notification, the department will deny the request for failure to complete.

(9) If, after the denial for failure to complete the request, the contractor submits a written request for the same need, the date of receipt for the purposes of applying subsection (7) will depend upon whether the subsequent request for the same need is complete, i.e., the department does not have to request additional documentation and information in order to make a determination. If a subsequent request for funding of the same need is:

(a) Complete, then the date of the initial incomplete request may be used when applying subsection (7) of this section; or

(b) Incomplete, then the date of the subsequent request must be used when applying subsection (7) of this section.

(10) The department shall respond, in writing, not later than sixty days after receipt of a complete request.

WSR 94-14-021
PERMANENT RULES
LIQUOR CONTROL BOARD
[Filed June 27, 1994, 10:56 a.m.]

Date of Adoption: June 22, 1994.

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

Citation of Existing Rules Affected by this Order:
Repealing WAC 314-64-060.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-11-085 on May 17, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 22, 1994

Joseph L. McGavick
Chairman

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-64-060 Purpose.

WSR 94-14-022
PERMANENT RULES
LIQUOR CONTROL BOARD

[Filed June 27, 1994, 10:59 a.m.]

Date of Adoption: June 22, 1994.

Purpose: To delete language from subsection (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.

Citation of Existing Rules Affected by this Order:
Amending WAC 314-64-080.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-11-086 on May 17, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 22, 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

PERMANENT

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 94-14-023
PERMANENT RULES
LIQUOR CONTROL BOARD
 [Filed June 27, 1994, 11:01 a.m.]

Date of Adoption: June 22, 1994.

Purpose: To state what agents may do and to clearly state what agents may not do.

Statutory Authority for Adoption: RCW 66.08.030.

Pursuant to notice filed as WSR 94-11-087 on May 17, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 22, 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 94-14-028
PERMANENT RULES
STATE BOARD OF EDUCATION

[Filed June 28, 1994, 11:16 a.m.]

Date of Adoption: May 20, 1994.

Purpose: The addition of new WAC 180-29-147 will clarify the retainage process and the choices available to local districts. Amendments to WAC 180-29-135 and 180-29-170 will reflect and clarify the inclusion of WAC 180-29-147 and its stipulation into chapter.

Citation of Existing Rules Affected by this Order: Amending WAC 180-29-135 and 180-29-170.

Statutory Authority for Adoption: RCW 28A.525.020.

Other Authority: Section 24 (8)(e), chapter 233, Laws of 1992.

Pursuant to notice filed as WSR 94-08-068 on April 4, 1994.

Changes Other than Editing from Proposed to Adopted Version: Changes to reflect amendments to RCW 28A.60.28.011 [60.28.011] as per chapter 101, Laws of 1994, which make the acceptance by a public body of a bond in lieu of retainage mandatory if the bond meets the public body requirements.

Effective Date of Rule: Thirty-one days after filing.

June 27, 1994

Dr. Monica Schmidt
 Executive Director/Secretary

NEW SECTION

WAC 180-29-147 Retained percentage law related requirements.

(1) State school building assistance is conditioned upon a school district's compliance with the cash, or bond in lieu of cash, retained percentage requirements of chapter 60.28 RCW and this section. A school district may elect to administer compliance with all requirements of chapter 60.28 RCW or, in part, designate the state board of education acting through the superintendent of public instruction as agent of the school district for purposes of administering retained percentage moneys reserved under RCW 60.28.011.

(2) Under RCW 60.28.011, a school district either:

(a) Must provide for the reservation of five percent of all moneys earned by a contractor either by the district, deposited by the district in an interest-bearing account or placed in escrow as provided in RCW 60.28.011(4); or

(b) Must accept a bond submitted by the contractor from any portion of the retainage in a form acceptable to the superintendent of public instruction and the school district

and from a bonding company which meets the standards established at subsection (4)(b) of this section and by the school district, unless the school district can demonstrate good cause for refusing to accept the bond.

As a general rule, the state board of education prefers and recommends the cash retainage option for reasons which include the security and ease of enforcement which the cash option affords.

(3) Cash retainage.

(a) If the school district reserves five percent of all moneys earned by the contractor in a retainage trust fund administered by the school district in accordance with RCW 60.28.011(1), moneys deposited in that trust fund (whether retained by the district, deposited by the district in an interest-bearing account, or placed in escrow), may be paid to the contractor without prior written consent by the superintendent of public instruction. The superintendent of public instruction shall make available to the school district model procedures and forms for setting up the trust fund selected by the contractor under RCW 60.28.011(4).

(b) At the request of the school district, the state board of education acting through the superintendent of public instruction may be designated as agent of the school district for cash retainage and will:

(i) Administer the retained percentage trust fund in accordance with RCW 60.28.011, inclusive of depositing, releasing and accounting for such moneys;

(ii) Establish and administer the retained percentage trust fund in accordance with the terms of chapter 60.28 RCW, and such terms as may be established by the superintendent of public instruction to ensure compliance with chapter 60.28 RCW, the security of trust fund moneys and efficient administration; and

(iii) Ensure that no moneys lawfully deposited in the retained percentage trust fund shall be paid to the contractor without the prior written consent of the superintendent of public instruction, except for the payment of interest earnings as may be required by law.

(4) If at the request of the contractor the bond in lieu of cash retained percentage option is implemented the following conditions apply:

(a) The bond shall be in terms and of a form approved and established by the superintendent of public instruction to ensure that the bond adequately addresses the purposes of chapter 60.28 RCW; and

(b) The bond shall be signed by a surety that is:

(i) Registered with the Washington state insurance commissioner; and

(ii) On the currently authorized insurance list published by the Washington state insurance commissioner.

(c) Whatever additional requirements for the bonding company as may be established by the school district.

(5) The release of retainage, whether cash or bond-in-lieu, shall be conditioned upon satisfactory compliance with the provisions of WAC 180-29-165.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-135 Disbursement of moneys—General provisions applicable to payments. Disbursement of moneys shall be in accordance with the following provisions:

(1) Payments to contractor(s) by school district. Payments to contractors shall be on the basis of work completed. Contractors shall submit to the school district monthly estimates of work completed which shall be supported by the architect/engineer's certificate for payment. No payments shall be made without certification from the architect/engineer that such work has been completed.

(2) Payments to others. Payments to others as per chapter 180-27 WAC shall be made in accordance with the contract provisions for those services.

(3) Retainage. The provisions of chapter 60.28 RCW relating to public works contracts and of WAC 180-29-147 shall govern retainage on contract payments.

AMENDATORY SECTION (Amending Order 12-83, filed 10/17/83)

WAC 180-29-170 Liens. In the event that liens are filed with the school district, the provisions of RCW 60.28.010 through 60.28.060 shall apply. If the district holds a cash retainage under WAC 180-29-147 (2)(a), the amount of each lien plus three thousand dollars or twenty-five percent of the claim, whichever is greater, for potential attorney fees, plus ten percent of the lien claim for court costs, shall be withheld from the retainage until any lien has been removed.

WSR 94-14-029

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 94-14—Filed June 28, 1994, 11:40 a.m.]

Date of Adoption: June 28, 1994.

Purpose: Adoption of revised shoreline master program for the city of Gig Harbor into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3506 City of Gig Harbor shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 94-10-040 on April 29, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 28, 1994

Mary Riveland

Director

AMENDATORY SECTION (Amending Order DE 80-50, filed 12/11/80)

WAC 173-19-3506 Gig Harbor, ((town)) city of. ((Town)) City of Gig Harbor master program approved September 10, 1975. Revision approved December 10, 1980. Revision approved June 28, 1994.

WSR 94-14-030
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 94-16—Filed June 28, 1994, 11:45 a.m.]

June 28, 1994
Deborah Senn
Insurance Commissioner

Date of Adoption: June 28, 1994.
Purpose: Adoption of revised shoreline master program for San Juan County into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-360 San Juan County shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 94-10-041 on April 29, 1994.

Effective Date of Rule: Thirty-one days after filing.
June 28, 1994
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-40, filed 12/22/92, effective 1/22/93)

WAC 173-19-360 San Juan County. San Juan County master program approved May 28, 1976. Revision approved October 29, 1976. Revision approved April 13, 1981. Revision approved October 30, 1984. Revision approved April 19, 1989. Revision approved March 14, 1990. Revision approved May 15, 1990. Revision approved June 19, 1990. Revision approved February 5, 1991. Revision approved June 4, 1991. Revision approved August 18, 1992. Revision approved October 20, 1992. Revision approved June 28, 1994.

WSR 94-14-033
PERMANENT RULES
OFFICE OF
INSURANCE COMMISSIONER
[Order R 94-14—Filed June 28, 1994, 2:48 p.m.]

Date of Adoption: June 28, 1994.
Purpose: Amend to identify changes from one-year to two-year renewal cycle and to increase required continuing education hours by four hours per license year. Update chapter 284-17 WAC to conform to amendments, chapter 131, Laws of 1994.

Citation of Existing Rules Affected by this Order: Amending WAC 284-17-120, 284-17-121, 284-17-220, 284-17-250, 284-17-260, 284-17-290, 284-17-320, 284-17-400, 284-17-410, and 284-17-420.

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

Pursuant to notice filed as WSR 94-11-100 on May 17, 1994.

Changes Other than Editing from Proposed to Adopted Version: The continuing education requirement will be thirty-two hours for each two year licensing period, rather than thirty-six hours.

Effective Date of Rule: Thirty-one days after filing.

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:

Table with 2 columns: TYPE OF LICENSE and EXAMINATION(S) REQUIRED. Lists various license types and their corresponding exam requirements.

(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.

PERMANENT

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-two 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.

**WSR 94-14-035
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Filed June 28, 1994, 5:00 p.m., effective July 1, 1994]

Date of Adoption: June 28, 1994.

Purpose: To implement a fishing closure on Hampton (Upper and Lower) lakes, Hen, Dabbling and Marie lakes; Katey Lake; Homestead and Magpie lakes and creeks, Lower Caliche Lake, and Caliche Lake West, Wannacut Lake and Ellen Lake which will be subject to rehabilitation during the fall of 1994.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-11-125 on May 18, 1994.

Changes Other than Editing from Proposed to Adopted Version: New section: Hen Lake and Dabbling Lake, change CLOSED WATERS dates to September 1, 1994 - April 15, 1995, to remain consistent with the effective date on the 1995-96 regulation pamphlet. Homestead Lake and Creek typographical error in the word, Effective (remove extra "t"). Magpie Lake and Creek (Grant Co.) add the "period" behind Co.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: An effective date of July 1, 1994, which is earlier than the thirty-one 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.

Effective Date of Rule: July 1, 1994.

June 28, 1994

John McGlenn, Chairman
for Patricia McLain
Senior Assistant Director

NEW SECTION

WAC 232-28-61951 1994-95 Washington game fish seasons and catch limits—Hampton (Upper and Lower) lakes, Hen, Dabbling 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 15, 1995.

Dabblers 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 15, 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 94-14-038
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Pharmacy)
 [Filed June 29, 1994, 8:48 a.m.]

Date of Adoption: May 18, 1994.

Purpose: Establishes that renewal notices will be sent out to last address, but that licensee is responsible to pay their renewal whether they get renewal notice or not.

Citation of Existing Rules Affected by this Order: Amending WAC 246-907-020.

Statutory Authority for Adoption: RCW 18.64.005.
 Pursuant to notice filed as WSR 94-08-096 on April 6, 1994.

Effective Date of Rule: Thirty-one days after filing.
 June 17, 1994
 Maureen E. Sandison
 Board Chair

AMENDATORY SECTION (Amending Order 256, filed 3/18/92, effective 4/18/92)

WAC 246-907-020 Licensing periods. (1) The following are established by the secretary as the licensing periods for each license specified:

(a) Pharmacist licenses will expire on February 1 of each year.

(b) Pharmacy location, controlled substance registration (pharmacy), pharmacy assistant utilization, and shopkeeper differential hours licenses will expire on June 1 of each year.

(c) All other licenses, registrations, permits, or (~~registrations~~) certifications will expire on October 1 of each year.

(2) Before the expiration date of one of the above-listed authorizations, a renewal notice will be mailed to the last mailing address of record of every authorization holder. The authorization holder is responsible for renewing the authorization prior to the expiration date regardless of whether the renewal notice has been received.

(3) Any license, permit, or registration that is not renewed on or before the expiration date established herein shall expire and shall no longer be valid to practice or conduct the activity for which it is issued. Any license, permit, or registration that has not been renewed by the expiration date shall be renewed only upon payment of the renewal fee and penalty fee as specified in WAC 246-907-030.

WSR 94-14-044
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
 [Filed June 29, 1994, 10:36 a.m.]

Date of Adoption: June 29, 1994.

Purpose: Requires providers to adopt the current version of the federal health care financing administration common procedure coding system every year on January 1. Changes references to the above coding system in WAC 296-20-110. Removes language from chapter 296-21 WAC and incorporates it into Washington RBRVS payment policies portion of the fee schedules.

Citation of Existing Rules Affected by this Order: Repealing WAC 296-21-015, 296-21-025, 296-21-026, 296-21-027, 296-21-030, 296-21-085, 296-21-240, 296-21-250, 296-21-260, 296-21-300, 296-21-310, 296-21-320, and 296-23-150; amending WAC 296-20-010 and 296-20-110; and new section WAC 296-20-01505.

Statutory Authority for Adoption: RCW 51.04.020, 51.04.030.

Other Authority: SHB 1352.

Pursuant to notice filed as WSR 94-07-126 on March 23, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 296-23-220, 296-23-225, 296-23-230, 296-23-235, 296-21-270, 296-21-280, 296-21-290 and 296-23A-400, after receiving testimony at the April 26, 1994, hearing, the previous WACs will not be acted upon.

Effective Date of Rule: Thirty-one days after filing.

June 29, 1994

Mark O. Brown
Director

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-010 General information. (1) The following rules are promulgated pursuant to RCW 51.04.020 and 51.04.030. The department or self-insurer may purchase necessary physician and other provider services according to the fee schedules. The fee schedules shall be established in consultation with interested persons and updated at times determined by the department in consultation with those interested persons. Prior to the establishment or amendment of the fee schedules, the department will give at least thirty calendar days notice by mail to interested persons who have made timely request for advance notice of the establishment or amendment of the fee schedules. To request advance notice of the establishment or amendment of the fee schedules, interested persons must contact the department at the following address:

Department of Labor and Industries
Health Services Analysis
Interested Person's Mailing List for the Fee Schedules
P.O. Box 44322
Olympia, WA 98504-4322

The department or self-insurer will require the current version of the federal Health Care Financing Administration's Common Procedure Coding System (HCPCS) Level I (or CPT) and II codes on January 1, of each new year. CPT refers to the American Medical Association's Physicians' Current Procedural Terminology codes.

The department and self-insurer will allow a "grace period" in which codes deleted each year may be submitted for payment. This grace period will start on January 1 of each year and the length of time will be determined by department policy.

The adoption of these codes on an annual basis is designed to reduce the administrative burden on providers and lead to more accurate reporting of services. However, the inclusion of a service, product or supply within these new codes does not necessarily imply coverage, reimbursement or endorsement, by the department or self-insurer. The department will make coverage and reimbursement decisions for these new codes on an individual basis.

If there are any services, procedures or narrative text contained in the new HCPCS Level I and II codes that conflict with the medical aid rules or fee schedules, the department's rules and policies take precedence.

Copies of the HCPCS Level I and II codes are available for public inspection. These documents are available in each of the department's service locations.

Copies of the HCPCS Level II codes may be purchased from:

The Superintendent of Documents
United States Government Printing Office
Washington, DC 20402
(202) 783-3238

Copies of the Level I (or CPT) codes may be purchased from:

The American Medical Association
Chicago, Illinois 60601
(800) 621-8335

In addition to the sources listed above, both the Level I and II codes may be purchased from a variety of private sources.

(2) The fee schedules are intended to cover all services for accepted industrial insurance claims. All fees listed are the maximum fees allowable. Practitioners shall bill their usual and customary fee for services. **If a usual and customary fee for any particular service is lower to the general public than listed in the fee schedules, the practitioner shall bill the department or self-insurer at the lower rate.** The department or self-insurer will pay the lesser of the billed charge or the fee schedules' maximum allowable.

(3) The rules contained in the introductory section pertain to *all* practitioners regardless of specialty area or limitation of practice. Additional rules pertaining to specialty areas will be found in the appropriate section of the medical aid rules.

(4) The methodology for determining the maximum allowable fee for a procedure is listed in WAC 296-20-132 and 296-20-135.

(5) No fee is payable for missed appointments unless the appointment is for an examination arranged by the department or self-insurer.

(6) When a claim has been accepted by the department or self-insurer, no provider or his/her representative may bill the worker for the difference between the allowable fee and the usual and customary charge. Nor can the worker be charged a fee, either for interest or completion of forms, related to services rendered for the industrial injury or condition. Refer to chapter 51.04 RCW.

(7) Practitioners must maintain documentation in claimant medical or health care service records adequate to verify the level, type, and extent of services provided to claimants. A health care practitioner's bill for services, appointment book, accounting records, or other similar methodology do not qualify as appropriate documentation for services rendered. Refer to chapter 296-20 WAC and department policy for reporting requirements.

(8) Except as provided in WAC 296-20-055 (temporary treatment of unrelated conditions when retarding recovery), practitioners shall bill, and the department or self-insurer shall pay, only for proper and necessary medical care required for the diagnosis and curative or rehabilitative treatment of the accepted condition.

(9) When a worker is being treated concurrently for an unrelated condition the fee allowable for the service(s) rendered must be shared proportionally between the payors.

(10) Correspondence: Correspondence pertaining to state fund and department of energy claims should be sent to: Department of Labor and Industries, Claims Administration, P.O. Box 44291, Olympia, Washington 98504-4291.

Accident reports should be sent to: Department of Labor and Industries, P.O. Box 44299, Olympia, Washington 98504-4299.

Send provider bills by type (UB-92) to: Department of Labor and Industries, P.O. Box 44266, Olympia, Washington 98504-4266.

Adjustments, Home Nursing and Miscellaneous to: Department of Labor and Industries, P.O. Box 44267, Olympia, Washington 99504-44267

Pharmacy to: Department of Labor and Industries, P.O. Box 44268, Olympia, Washington 99504-4268.

HFCA to: Department of Labor and Industries, P.O. Box 44269, Olympia, Washington 98504-4269.

State fund claims have six digit numbers preceded by a letter other than "S," "T," or "V."

Department of energy claims have seven digit numbers with no letter prefix.

All correspondence and billings pertaining to *crime victims* claims should be sent to Crime Victims Division, Department of Labor and Industries, P.O. Box 44520, Olympia, Washington 98504-4520.

Crime victim claims have six digit numbers preceded by a "V."

All correspondence and billings pertaining to self-insured claims should be sent directly to the employer or the service representative as the case may be.

Self-insured claims are six digit numbers preceded by a "S," or "T."

Communications to the department or self-insurer must show the patient's full name and claim number. If the claim number is unavailable, providers should contact the department or self-insurer for the number, indicating the patient's name, Social Security number, the date and the nature of the injury, and the employer's name. A communication should refer to one claim only. Correspondence must be legible and reproducible, as department records are microfilmed. Correspondence regarding specific claim matters should be sent directly to the department in Olympia or self-insurer in order to avoid rehandling by the service location.

(11) The department's various local service locations should be utilized by providers to obtain information, supplies, or assistance in dealing with matters pertaining to industrial injuries.

NEW SECTION

WAC 296-20-01505 Provider types and services not covered. The department will not pay for services performed by the following practitioners:

- Acupuncturists
- Herbalists
- Christian Science practitioners or theological healers
- Homeopaths
- Noncertified physician assistants
- Operating room technicians

- Certified surgical technicians
- Certified surgical assistants
- Any other licensed or unlicensed practitioners not otherwise specifically provided for by the department.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-20-110 Dental. Only dentists, oral surgeons or dental specialists licensed in the state in which they practice are eligible to treat workers entitled to benefits under the industrial insurance law.

If only a dental injury is involved, the doctor's portion of the report of accident must be completed by the dentist to whom the worker first reports. See WAC 296-20-025 for further information.

If the accident report has been submitted by another doctor, the dentist's report should be made by letter. In addition to the information required under WAC 296-20-025, the dentist should outline the extent of the dental injury and the treatment program necessary to repair damage due to the injury. Dental x-rays should be retained by the attending dentist for a period of not less than ten years. The department or self-insurer does not require submission of the actual films except upon specific request.

The department or self-insurer is responsible only for repair or replacement of teeth injured or dentures broken as a result of an industrial accident. Any dental work needed due to underlying conditions unrelated to the industrial injury is the responsibility of the worker. It is the responsibility of the dentist to advise the worker accordingly.

In cases presenting complication, controversy, or diagnostic or therapeutic problems, consultation by another dentist may be requested to support authorization for restorative repairs.

Bills covering the cost of dentures should be submitted for the denture only and should not include the cost for subsequent relining. If relining becomes necessary, authorization for relining must be obtained in advance from the department or self-insurer.

Bills must be submitted to the department or self-insurer within one year from the date the service is rendered. Bills must itemize the service rendered, including (~~standard American Dental Association procedure~~) the current HCPCS Level II codes, the materials used and the injured tooth number(s). See WAC 296-20-125 and department policy for further billing rules.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-23-135 General information—Radiology.

(1) Rules and billing procedures pertaining to all practitioners rendering services to workers are presented in the general instruction section beginning with WAC 296-20-010.

(2) Billing codes, reimbursement levels, and supporting policies are listed in the fee schedules.

(3) Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

(4) Refer to (~~chapter 296-21 WAC~~) the fee schedules for information on use of coding modifiers.

(5) The values listed in the fee schedules only apply when these services are performed by or under the responsible supervision of a doctor.

AMENDATORY SECTION (Amending WSR 93-16-072, filed 8/1/93, effective 9/1/93)

WAC 296-23-155 Pathology general information and instructions. (1) Rules and billing procedures pertaining to all practitioners rendering service to workers are presented in general information section beginning with WAC 296-20-010.

(2) Refer to WAC 296-20-132 and 296-20-135 for information regarding use of the conversion factors.

(3) Refer to ((chapter 296-21 WAC)) the fee schedules for information on use of coding modifiers.

(4) Billing codes, reimbursement levels, and supporting policies are listed in the fee schedules.

(5) The reimbursement levels listed in the fee schedules apply only when the services are performed by or under the responsible supervision of a physician. Unless otherwise specified, the listed values include the collection and handling of the specimens by the laboratory performing the procedure. SERVICES IN PATHOLOGY AND LABORATORY are provided by the pathologist or by technologists under responsible supervision of a physician.

(6) Laboratory procedures performed by other than the billing physician shall be billed at the value charged that physician by the reference (outside) laboratory under the individual procedure number or the panel procedure number listed under "PANEL OR PROFILE TESTS" (see modifier -90).

(7) The department or self-insurer may deny payment for lab procedures which are determined to be excessive or unnecessary for management of the injury or conditions.

(8) Separate or multiple procedures: It is appropriate to designate multiple procedures that are rendered on the same date by separate entries.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-23-150 Low osmolar contrast media.

**WSR 94-14-048
PERMANENT RULES
DEPARTMENT OF REVENUE**

[Filed June 30, 1994, 10:02 a.m., effective July 1, 1994]

Date of Adoption: June 30, 1994.

Purpose: To establish the stumpage values for reporting and payment of the timber excise tax for the period July 1, 1994, through December 31, 1994, as required by RCW 84.33.091.

Citation of Existing Rules Affected by this Order: Amending WAC 458-40-650, 458-40-660, and 458-40-670. Statutory Authority for Adoption: RCW 84.33.091.

Other Authority: RCW 84.32.300 and 84.33.096.

Pursuant to notice filed as WSR 94-10-063 on May 3, 1994.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: State statute, RCW 84.33.091(1), requires that stumpage values be in effect on or before June 30, 1994, for use from July 1, 1994, through December 31, 1994.

Effective Date of Rule: July 1, 1994.

June 30, 1994
Steve D. Vermillion
Program Coordinator
Forest Tax Section

AMENDATORY SECTION (Amending WSR 92-14-083, filed 6/29/92, effective 7/1/92)

WAC 458-40-650 Timber excise tax—Timber quality codes defined. The timber quality code numbers for each species of timber shown in the stumpage value tables contained in this chapter are defined as follows:

**TABLE 1—Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10**

Species	Quality Code Number	Log grade specifications ¹
Douglas-fir	1	Over 50% No. 2 Sawmill and better log grade, and 15% and over Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	2	Over 50% No. 2 Sawmill and better log grade, and less than 15% Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	3	25-50% inclusive No. 2 Sawmill and better log grade.
Douglas-fir	4	Less than 25% No. 2 Sawmill and better log grade.
Western Redcedar and Alaska-Cedar	1	Over 30% No. 2 Sawmill and better log grade, and 15% and over Special Mill, No. 1 Sawmill, Peeler and better log grade.
Western Redcedar and Alaska-Cedar	2	Over 30% No. 2 Sawmill and better log grade, and less than 15% Special Mill, No. 1 Sawmill, Peeler Land better log grade.
Western Redcedar and Alaska-Cedar	3	5-30% inclusive No. 2 Sawmill and better log grade.
Western Redcedar and Alaska-Cedar	4	Less than 5% No. 2 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	1	Over 50% No. 2 Sawmill and better log grade, and 5% and over Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	2	Over 50% No. 2 Sawmill and better log grade, and less than 5% Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	3	25-50% inclusive No. 2 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	4	Less than 25% No. 2 Sawmill and better log grade.
Ponderosa Pine	1	Less than 10 logs 16 feet long per thousand board feet Scribner scale.
Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.

PERMANENT

Lodgepole Pine	1	All log grades.
((Hardwoods	1	All No. 3 Sawmill logs and better log grades.
Hardwood	1	All No. 4 Sawmill log grade and all utility
Utility		hardwood logs graded as utility.
Red Alder and other hardwoods	1	Over 50% No. 3 Sawmill and better log grades.
Red Alder and other hardwoods	2	10-50% inclusive No. 3 Sawmill and better other hardwoods log grades.
Red Alder and other hardwoods	3	Less than 10% No. 3 Sawmill and better log grades.
Black Cottonwood	1	35% and over Peeler log grade.
Black Cottonwood	2	Less than 35% Peeler log grade and 15% and greater No.1 Sawmill and better log grade.
Black Cottonwood	3	Less than 15% No. 1 Sawmill and better log grade.
Conifer Utility	1	All conifer logs graded as utility log grade.

¹ For detailed descriptions and definitions of approved log scaling, grading rules, and procedures see WAC 458-40-680.

**TABLE 2—Timber Quality Code Table
Stumpage Value Areas 6 and 7**

Species	Quality Code Number	Log grade specifications ¹
Ponderosa Pine	1	Less than 10 logs 16 feet long per thousand board feet Scribner scale.
Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
All conifers other than Ponderosa Pine	1	All log sizes.
Hardwoods	1	Sawlogs only.
Utility	1	All logs graded as utility.

AMENDATORY SECTION (Amending WSR 94-02-047, filed 12/30/93, effective 1/1/94)

WAC 458-40-660 Timber excise tax—Stumpage value tables. The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((January)) July 1 through ((June 30)) December 31, 1994:

**((TABLE 1—Stumpage Value Table
Stumpage Value Area 1
January 1 through June 30, 1994**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$1,174	\$1,167	\$1,160	\$1,153	\$1,146
		2	913	906	899	892	885
		3	774	767	760	753	746
		4	353	346	339	332	325

Western Redcedar ²	RC	1	1107	1100	1093	1086	1079
		2	1107	1100	1093	1086	1079
		3	637	630	623	616	609
		4	607	600	593	586	579
Western Hemlock ²	WH	1	610	603	596	589	582
		2	604	597	590	583	576
		3	597	590	583	576	569
		4	278	271	264	257	250
Other Conifer	OC	1	610	603	596	589	582
		2	604	597	590	583	576
		3	597	590	583	576	569
		4	278	271	264	257	250
Red Alder	RA	1	166	159	152	145	138
Black Cottonwood	BC	1	164	157	150	143	136
Other Hardwood	OH	1	84	77	70	63	56
Hardwood Utility	HU	1	115	108	101	94	87
Conifer Utility	CU	1	54	47	40	33	26
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁴ Stumpage value per 8 lineal feet or portion thereof.

⁵ Stumpage value per lineal foot.

**TABLE 2—Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1994**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir	DF	1	\$1,174	\$1,167	\$1,160	\$1,153	\$1,146
		2	823	826	819	812	805
		3	710	703	696	689	682
		4	571	564	557	550	543
Western Redcedar ²	RC	1	1218	1211	1204	1197	1190
		2	1218	1211	1204	1197	1190
		3	673	666	659	652	645
		4	326	319	312	305	298
Western Hemlock ²	WH	1	599	592	585	578	571
		2	583	576	569	562	555
		3	568	561	554	547	540
		4	323	316	309	302	295
Other Conifer	OC	1	599	592	585	578	571
		2	583	576	569	562	555
		3	568	561	554	547	540
		4	323	316	309	302	295
Red Alder	RA	1	166	159	152	145	138
Black Cottonwood	BC	1	164	157	150	143	136
Other Hardwood	OH	1	84	77	70	63	56
Hardwood Utility	HU	1	115	108	101	94	87
Conifer Utility	CU	1	54	47	40	33	26

PERMANENT

RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Stumpage value per 8 lineal feet or portion thereof.
⁵ Stumpage value per lineal foot.

**TABLE 3—Stumpage Value Table
 Stumpage Value Area 3
 January 1 through June 30, 1994**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$903	\$896	\$889	\$882	\$875
		2	847	840	833	826	819
		3	809	802	795	788	781
		4	595	588	581	574	567
Western Redcedar ³	RC	1	1122	1115	1108	1101	1094
		2	1122	1115	1108	1101	1094
		3	595	588	581	574	567
		4	569	562	555	548	541
Western Hemlock ⁴	WH	1	514	507	500	493	486
		2	484	477	470	463	456
		3	464	457	450	443	436
		4	264	257	250	243	236
Other Conifer	OC	1	514	507	500	493	486
		2	484	477	470	463	456
		3	464	457	450	443	436
		4	264	257	250	243	236
Red Alder	RA	1	166	159	152	145	138
Black Cottonwood	BC	1	164	157	150	143	136
Other Hardwood	OH	1	84	77	70	63	56
Hardwood Utility	HU	1	115	108	101	94	87
Conifer Utility	CU	1	54	47	40	33	26
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

**TABLE 4—Stumpage Value Table
 Stumpage Value Area 4
 January 1 through June 30, 1994**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$908	\$901	\$894	\$887	\$880
		2	785	778	771	764	757
		3	755	748	741	734	727
		4	595	588	581	574	567
Lodgepole Pine	LP	1	220	222	225	218	211
Ponderosa Pine	PP	1	757	750	743	736	729
		2	409	402	395	388	381
Western Redcedar ³	RC	1	1088	1081	1074	1067	1060
		2	1088	1081	1074	1067	1060
		3	581	574	567	560	553
		4	429	422	415	408	401
Western Hemlock ⁴	WH	1	514	507	500	493	486
		2	503	496	489	482	475
		3	493	486	479	472	465
		4	397	390	383	376	369
Other Conifer	OC	1	514	507	500	493	486
		2	503	496	489	482	475
		3	493	486	479	472	465
		4	397	390	383	376	369
Red Alder	RA	1	166	159	152	145	138
Black Cottonwood	BC	1	164	157	150	143	136
Other Hardwood	OH	1	84	77	70	63	56
Hardwood Utility	HU	1	115	108	101	94	87
Conifer Utility	CU	1	54	47	40	33	26
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

**TABLE 5—Stumpage Value Table
 Stumpage Value Area 5
 January 1 through June 30, 1994**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$900	\$893	\$886	\$879	\$872
		2	853	846	839	832	825
		3	614	607	600	593	586
		4	554	547	540	533	526

PERMANENT

Lodgepole Pine	LP	1	239	232	225	218	211
Ponderosa Pine	PP	1	757	750	743	736	729
		2	409	402	395	388	381
Western Redcedar ²	RC	1	1014	1007	1000	993	986
		2	968	961	954	947	940
		3	604	597	590	583	576
		4	365	358	351	344	337
Western Hemlock ⁴	WH	1	525	518	511	504	497
		2	525	518	511	504	497
		3	398	391	384	377	370
		4	327	320	313	306	299
Other Conifer	OC	1	525	518	511	504	497
		2	525	518	511	504	497
		3	398	391	384	377	370
		4	327	320	313	306	299
Red Alder	RA	1	166	159	152	145	138
Black Cottonwood	BC	1	164	157	150	143	136
Other Hardwood	OH	1	84	77	70	63	56
Hardwood Utility	HU	1	115	108	101	94	87
Conifer Utility	CU	1	54	47	40	33	26
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

TABLE 6 Stumpage Value Table
Stumpage Value Area 6
 January 1 through June 30, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$675	\$668	\$661	\$654	\$647
Engelmann Spruce	ES	1	237	230	223	216	209
Lodgepole Pine	LP	1	239	232	225	218	211
Ponderosa Pine	PP	1	757	750	743	736	729
		2	409	402	395	388	381
Western Redcedar ²	RC	1	544	537	530	523	516
True Fir ⁴	WH	1	221	214	207	200	193
Western White Pine	WP	1	435	428	421	414	407
Hardwoods	OH	1	25	18	11	4	1
Utility	CU	1	50	43	36	29	22
RC Shake & Shingle Blocks	RCF	1	152	145	138	131	124
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35

Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁷ Stumpage value per lineal foot.

TABLE 7 Stumpage Value Table
Stumpage Value Area 7
 January 1 through June 30, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$394	\$387	\$380	\$373	\$366
Engelmann Spruce	ES	1	294	287	280	273	266
Lodgepole Pine	LP	1	294	287	280	273	266
Ponderosa Pine	PP	1	671	664	657	650	643
		2	444	437	430	423	416
Western Redcedar ²	RC	1	544	537	530	523	516
True Fir ⁴	WH	1	294	287	280	273	266
Western White Pine	WP	1	594	587	580	573	566
Hardwoods	OH	1	25	18	11	4	1
Utility	CU	1	50	43	36	29	22
RC Shake & Shingle Blocks	RCF	1	152	145	138	131	124
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁷ Stumpage value per lineal foot.

TABLE 8 Stumpage Value Table
Stumpage Value Area 10
 January 1 through June 30, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas Fir ²	DF	1	\$894	\$887	\$880	\$873	\$866
		2	771	764	757	750	743
		3	741	734	727	720	713

PERMANENT

		4	581	574	567	560	552
Lodgepole Pine	LP	1	239	232	225	218	211
Ponderosa Pine	PP	1	757	750	743	736	729
		2	409	402	395	388	381
Western Redcedar ³	RC	1	1074	1067	1060	1053	1046
		2	1074	1067	1060	1053	1046
		3	567	560	553	546	539
		4	415	408	401	394	387
Western Hemlock ⁴	WH	1	500	493	486	479	472
		2	489	482	475	468	461
		3	479	472	465	458	451
		4	383	376	369	362	355
Other Conifer	OC	1	500	493	486	479	472
		2	489	482	475	468	461
		3	479	472	465	458	451
		4	383	376	369	362	355
Red Alder	RA	1	152	145	138	131	124
Black Cottonwood	BC	1	150	143	136	129	122
Other Hardwood	OH	1	70	63	56	49	42
Hardwood Utility	HU	1	101	94	87	80	73
Conifer Utility	CU	1	40	33	26	19	12
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot.)

TABLE 1—Stumpage Value Table
Stumpage Value Area 1
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$975	\$968	\$961	\$954	\$947
		2	868	861	854	847	840
		3	739	732	725	718	711
		4	600	593	586	579	572
Western Redcedar ²	RC	1	1388	1381	1374	1367	1360
		2	1324	1317	1310	1303	1296
		3	637	630	623	616	609
		4	607	600	593	586	579
Western Hemlock ³	WH	1	601	594	587	580	573
		2	566	559	552	545	538
		3	566	559	552	545	538
		4	374	367	360	353	346
Other Conifer	OC	1	601	594	587	580	573
		2	566	559	552	545	538
		3	566	559	552	545	538
		4	374	367	360	353	346

Red Alder	RA	1	158	151	144	137	130
		2	140	133	126	119	112
		3	94	87	80	73	66
Black Cottonwood	BC	1	198	191	184	177	170
		2	139	132	125	118	111
		3	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
		2	107	100	93	86	79
		3	94	87	80	73	66
Conifer Utility	CU	1	89	82	75	68	61
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Alaska-Cedar.

³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁴ Stumpage value per 8 lineal feet or portion thereof.

⁵ Stumpage value per lineal foot.

TABLE 2—Stumpage Value Table
Stumpage Value Area 2
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$928	\$921	\$914	\$907	\$900
		2	821	814	807	800	793
		3	692	685	678	671	664
		4	541	534	527	520	513
Western Redcedar ²	RC	1	1388	1381	1374	1367	1360
		2	1265	1258	1251	1244	1237
		3	673	666	659	652	645
		4	326	319	312	305	298
Western Hemlock ³	WH	1	613	606	599	592	585
		2	573	566	559	552	545
		3	573	566	559	552	545
		4	393	386	379	372	365
Other Conifer	OC	1	613	606	599	592	585
		2	573	566	559	552	545
		3	573	566	559	552	545
		4	393	386	379	372	365
Red Alder	RA	1	158	151	144	137	130
		2	140	133	126	119	112
		3	94	87	80	73	66
Black Cottonwood	BC	1	198	191	184	177	170
		2	139	132	125	118	111
		3	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
		2	107	100	93	86	79
		3	94	87	80	73	66
Conifer Utility	CU	1	89	82	75	68	61
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45

PERMANENT

DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Stumpage value per 8 lineal feet or portion thereof.
⁵ Stumpage value per lineal foot.

TABLE 3—Stumpage Value Table
Stumpage Value Area 3
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$1005	\$998	\$991	\$984	\$977
		2	1005	998	991	984	977
		3	674	667	660	653	646
		4	561	554	547	540	533
Western Redcedar ²	RC	1	1388	1381	1374	1367	1360
		2	1265	1258	1251	1244	1237
		3	595	588	581	574	567
		4	569	562	555	548	541
Western Hemlock ³	WH	1	632	625	618	611	604
		2	556	549	542	535	528
		3	488	481	474	467	460
		4	363	356	349	342	335
Other Conifer	OC	1	632	625	618	611	604
		2	556	549	542	535	528
		3	488	481	474	467	460
		4	363	356	349	342	335
Red Alder	RA	1	158	151	144	137	130
		2	140	133	126	119	112
		3	94	87	80	73	66
Black Cottonwood	BC	1	198	191	184	177	170
		2	139	132	125	118	111
		3	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
		2	107	100	93	86	79
		3	94	87	80	73	66
Conifer Utility	CU	1	89	82	75	68	61
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁴	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁵	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁵	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Alaska-Cedar.
³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁴ Stumpage value per 8 lineal feet or portion thereof.
⁵ Stumpage value per lineal foot.

TABLE 4—Stumpage Value Table
Stumpage Value Area 4
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$1059	\$1052	\$1045	\$1038	\$1031
		2	851	844	837	830	823
		3	741	734	727	720	713
		4	575	568	561	554	547
Lodgepole Pine	LP	1	417	410	403	396	389
Ponderosa Pine	PP	1	699	692	685	678	671
		2	520	513	506	499	492
Western Redcedar ³	RC	1	1388	1381	1374	1367	1360
		2	1054	1047	1040	1033	1026
		3	581	574	567	560	553
		4	429	422	415	408	401
Western Hemlock ⁴	WH	1	627	620	613	606	599
		2	556	549	542	535	528
		3	552	545	538	531	524
		4	377	370	363	356	349
Other Conifer	OC	1	627	620	613	606	599
		2	556	549	542	535	528
		3	552	545	538	531	524
		4	377	370	363	356	349
Red Alder	RA	1	158	151	144	137	130
		2	140	133	126	119	112
		3	94	87	80	73	66
Black Cottonwood	BC	1	198	191	184	177	170
		2	139	132	125	118	111
		3	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
		2	107	100	93	86	79
		3	94	87	80	73	66
Conifer Utility	CU	1	89	82	75	68	61
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

PERMANENT

TABLE 5—Stumpage Value Table
Stumpage Value Area 5
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$1059	\$1052	\$1045	\$1038	\$1031
		2	847	840	833	826	819
		3	692	685	678	671	664
		4	600	593	586	579	572
Lodgepole Pine	LP	1	417	410	403	396	389
Ponderosa Pine	PP	1	699	692	685	678	671
		2	520	513	506	499	492
Western Redcedar ³	RC	1	1388	1381	1374	1367	1360
		2	1097	1090	1083	1076	1069
		3	604	597	590	583	576
		4	365	358	351	344	337
Western Hemlock ⁴	WH	1	525	518	511	504	497
		2	525	518	511	504	497
		3	525	518	511	504	497
		4	390	383	376	369	362
Other Conifer	OC	1	525	518	511	504	497
		2	525	518	511	504	497
		3	525	518	511	504	497
		4	390	383	376	369	362
Red Alder	RA	1	158	151	144	137	130
		2	140	133	126	119	112
		3	94	87	80	73	66
Black Cottonwood	BC	1	198	191	184	177	170
		2	139	132	125	118	111
		3	94	87	80	73	66
Other Hardwood	OH	1	210	203	196	189	182
		2	107	100	93	86	79
		3	94	87	80	73	66
Conifer Utility	CU	1	89	82	75	68	61
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot.

TABLE 6—Stumpage Value Table
Stumpage Value Area 6
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$750	\$743	\$736	\$729	\$722
Engelmann Spruce	ES	1	403	396	389	382	375
Lodgepole Pine	LP	1	417	410	403	396	389
Ponderosa Pine	PP	1	699	692	685	678	671
		2	520	513	506	499	492
Western Redcedar ³	RC	1	564	557	550	543	536
True Firs ⁴	WH	1	438	431	424	417	410
Western White Pine	WP	1	582	575	568	561	554
Hardwoods	OH	1	25	18	11	4	1
Utility	CU	1	64	57	50	43	36
RC Shake & Shingle Blocks	RCF	1	152	145	138	131	124
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
² Includes Western Larch.
³ Includes Alaska-Cedar.
⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
⁵ Stumpage value per 8 lineal feet or portion thereof.
⁶ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
⁷ Stumpage value per lineal foot.

TABLE 7—Stumpage Value Table
Stumpage Value Area 7
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$434	\$427	\$420	\$413	\$406
Engelmann Spruce	ES	1	403	396	389	382	375
Lodgepole Pine	LP	1	417	410	403	396	389
Ponderosa Pine	PP	1	699	692	685	678	671
		2	520	513	506	499	492
Western Redcedar ³	RC	1	564	557	550	543	536
True Firs ⁴	WH	1	403	396	389	382	375
Western White Pine	WP	1	582	575	568	561	554
Hardwoods	OH	1	25	18	11	4	1
Utility	CU	1	64	57	50	43	36

PERMANENT

RC Shake & Shingle Blocks	RCF	1	152	145	138	131	124
LP & Other Posts ⁵	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁶	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁷	DFX	1	0.25	0.25	0.25	0.25	0.25

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.

⁷ Stumpage value per lineal foot.

TABLE 8—Stumpage Value Table
Stumpage Value Area 10
 July 1 through December 31, 1994

Stumpage Values per Thousand Board Feet Net Scribner Log Scale¹

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ²	DF	1	\$1045	\$1038	\$1031	\$1024	\$1017
		2	837	830	823	816	809
		3	727	720	713	706	699
		4	561	554	547	540	533
Lodgepole Pine	LP	1	417	410	403	396	389
Ponderosa Pine	PP	1	699	692	685	678	671
		2	520	513	506	499	492
Western Redcedar ³	RC	1	1374	1367	1360	1353	1346
		2	1040	1033	1026	1019	1012
		3	567	560	553	546	539
		4	415	408	401	394	387
Western Hemlock ⁴	WH	1	613	606	599	592	585
		2	542	535	528	521	514
		3	538	531	524	517	510
		4	363	356	349	342	335
Other Conifer	OC	1	613	606	599	592	585
		2	542	535	528	521	514
		3	538	531	524	517	510
		4	363	356	349	342	335
Red Alder	RA	1	144	137	130	123	116
		2	126	119	112	105	98
		3	80	73	66	59	52
Black Cottonwood	BC	1	184	177	170	163	156
		2	125	118	111	104	97
		3	80	73	66	59	52
Other Hardwood	OH	1	210	203	196	189	182
		2	93	86	79	72	65
		3	80	73	66	59	52
Conifer Utility	CU	1	75	68	61	54	47
RC Shake Blocks	RCS	1	774	767	760	753	746
RC Shingle Blocks	RCF	1	166	159	152	145	138
RC & Other Posts ⁵	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁶	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁶	TFX	1	0.50	0.50	0.50	0.50	0.50

¹ Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.

² Includes Western Larch.

³ Includes Alaska-Cedar.

⁴ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁵ Stumpage value per 8 lineal feet or portion thereof.

⁶ Stumpage value per lineal foot.

AMENDATORY SECTION (Amending WSR 94-02-047, filed 12/30/93, effective 1/1/94)

WAC 458-40-670 Timber excise tax—Stumpage value adjustments. Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

(1) No harvest adjustment shall be allowed against special forest products.

(2) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

(3) Timber harvesters planning to remove timber from areas having damaged timber may apply to the department for adjustment in stumpage values. Such applications shall contain a map with the legal descriptions of the area, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. Such applications must be received by the department before the harvest commences. Upon receipt of such application, the department will determine the amount of adjustment allowed and notify the harvester. In the event the extent of the damage or additional costs is not known at the time the application is filed, the harvester may provide relevant information to the department for a period not exceeding ninety days following completion of the harvest unit.

The following harvest adjustment tables are hereby adopted for use during the period of ((~~January~~)) July 1 through ((~~June 30~~)) December 31, 1994:

TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
 ((~~January~~)) July 1 through ((~~June 30~~)) December 31, 1994

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	\$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	- \$4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	- \$7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	- \$9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	- \$10.00

II. Logging conditions

Class 1	Generally slopes less than 40%. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	Generally slopes between 40% and 60%. Some rock outcrops or swamp barriers.	- \$17.00
Class 3	Generally rough, broken ground with slopes in excess of 60%. Numerous rock outcrops and bluffs.	- \$25.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- \$69.00

III. Remote island adjustment:

For timber harvested from a remote island - \$50.00

IV. Thinning (see WAC 458-40-610(20))

Class 1	Average log volume of 50 board feet or more.	- \$25.00
Class 2	Average log volume of less than 50 board feet.	- \$125.00

**TABLE 2—Harvest Adjustment Table
Stumpage Value Areas 6 and 7**

((January)) July 1 through ((June 30)) December 31, 1994

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
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I. Volume per acre

Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	- \$7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	- \$10.00

II. Logging conditions

Class 1	Generally slopes less than 40%. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	Generally slopes between 40% and 60%. Some rock outcrops or swamp barriers.	((-\$18.00)) - \$20.00
Class 3	Generally rough, broken ground with slopes in excess of 60%. Numerous rock outcrops and bluffs.	((-\$25.00)) - \$30.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- \$69.00

III. Remote island adjustment:

For timber harvested from a remote island - \$50.00

TABLE 3—Domestic Market Adjustment

Public Timber

Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska Yellow Cedar. (Stat. Ref. - 36 CFR 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Red Cedar only. (Stat. Ref. - 50 USC appendix 2406.1)

Private timber

Harvest of private timber which is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i); a Cooperative Sustained Yield Unit Agreement made pursuant to the Act of March 29, 1944, (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The adjustment amounts shall be as follows:

Class 1:	SVA's 1 through 6, and 10	\$0.00 per MBF
Class 2:	SVA 7	\$0.00 per MBF

Note: The adjustment will not be allowed on special forest products.

**WSR 94-14-050
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Order 94-07—Filed June 30, 1994, 10:54 a.m.]

Date of Adoption: June 29, 1994.

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

Citation of Existing Rules Affected by this Order: Repealing WAC 392-140-190 through 392-140-202.

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

Pursuant to notice filed as WSR 94-11-066 on May 12, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 29, 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:

PERMANENT

(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—

- 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 94-14-051
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES**

[Filed June 30, 1994, 11:15 a.m., effective August 2, 1994]

Date of Adoption: June 29, 1994.

Purpose: Establishes administrative procedures and procedural definitions that the department will use to implement the 1993 revisions to the Surface Mining Act, chapter 78.44 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 332-18-015, 332-18-020 to 332-18-040, 332-18-060 to 332-18-110 inclusive; and amending WAC 332-18-010, 332-18-050, 332-18-120, and 332-18-130.

Statutory Authority for Adoption: RCW 78.44.040.

Other Authority: RCW 34.05.220, 43.21C.135, 78.44.250.

Pursuant to notice filed as WSR 94-09-062 on April 20, 1994.

Changes Other than Editing from Proposed to Adopted Version: Clarification of enforcement as this term applies to delegation to counties; clarification of adequate SEPA documentation; \$1,000 fee for 2 or more small county mines; matching authority to deny permits with authority of RCW 78.44.083; minor editing.

Effective Date of Rule: August 2, 1994.

June 30, 1994
Kaleen Cottingham
Supervisor

**Chapter 332-18 WAC
SURFACE (~~(MINED LAND)~~) MINE RECLAMATION**

AMENDATORY SECTION (Amending Order 86, filed 10/27/70, effective 11/28/70)

WAC 332-18-010 Definitions. The following definitions shall (~~(be applicable)~~) apply to these rules (~~(and regulations)~~):

(1) "The act" (~~(wherever referred to in these rules and regulations, shall)~~) means the Washington Surface(~~(-Mined Land Reclamation)~~) Mining Act, chapter 78.44 RCW.

(2) (~~("Stagnant water" shall mean any nonflowing body of water which is, or is likely to become, noxious, odious, or foul.~~

~~(3) "Remote area" as contained in section 4(1) of the act, shall mean a rural area on which the operating area of~~

PERMANENT

~~a surface mining site is not visible from any state highway, county road, or any public street or highway, or, if visible, it is more than one mile away from the point on such road from which it is visible.))~~ "Buffers" are synonymous with screening as used in the act.

(3) "Completed application" means receipt and approval by the department of all information required in the act, including:

- (a) A reclamation plan;
- (b) Performance security;
- (c) The application fee; and
- (d) Evidence that SEPA review has been completed.

(4) "Completed reclamation" as referred to in the act means final reclamation that has been approved by the department. Prior to approval, the department shall assure that the vegetative cover, soil stability, and water conditions of the reclaimed segment are appropriate to the approved subsequent use of the site. After July 1, 1995, final approval shall be given in writing by the department.

(5) "Enforcement" as used in these rules and the act means the regulatory authority to identify and document the status of compliance of a surface mine, and authority to impose sanctions under the act and these rules.

(6) "Land use plan" and "land use designation" refer to approval of the site for mining and for the use after mining by the appropriate city, town, or county government.

(7) "Simple and accurate legal description" in the act means the Government Land Office grid location (quarter section(s), section, Township, Range, and Meridian). Alternatively, the applicant or reclamation permit holder may provide a certified land survey. Metes and bounds descriptions are generally unacceptable for permits issued or revised after July 1, 1994.

Other terms used in these rules are defined in the act.

NEW SECTION

WAC 332-18-01001 Delegation of enforcement to counties. (1) The department may delegate enforcement of surface mine reclamation to a county: *Provided*, That the county agrees to:

- (a) Enforce all provisions of the act, these rules, and the approved reclamation plan;
- (b) Continuously employ enough qualified mine regulatory personnel to achieve the purposes of the act and these rules;
- (c) Assume full responsibility for all aspects of enforcement that are described in the contract between the department and the county;
- (d) Provide the department with copies of all documents related to enforcement; and
- (e) Comply with all related written policies of the department.

(2) Such delegation shall be through a contract with the county.

(3) The department shall audit the performance of the county to assure that there is compliance with the enforcement provisions of the act and these rules. If the department determines that the county has failed to adequately and fairly enforce the act and these rules to the department's satisfaction, then the county shall be given written notice describing the deficiencies. If the county is unable to correct the

deficiencies within the following six months, then the department may revoke the delegation.

(4) The department shall maintain sole authority to approve reclamation plans, to issue reclamation permits, to issue declarations of abandonment, to cancel reclamation permits, and to develop reclamation regulations and standards.

NEW SECTION

WAC 332-18-01002 Land use approval and regulation of operations. (1) For reclamation permits issued after July 1, 1994, approval of mining and of the subsequent use of the mine site shall be verified with a Form SM-6; except that such approval may not be required for mines on state or federal lands. The Form SM-6 must be signed by a responsible official from the appropriate city, town, or county.

(2) The department will not accept a Form SM-6 that obligates the department to regulate any "operation" except as necessary to assure timely reclamation.

(3) Conditions on any state surface mine operating permit issued prior to July 1, 1993, that cause the department to regulate "operations," that are not directly related to reclamation are invalid, except those conditions that were properly adopted pursuant to the department's SEPA substantive authority.

(4) After July 1, 1995, the department will attempt to notify the appropriate local government or state agency of surface mines affected by subsection (3) of this section.

NEW SECTION

WAC 332-18-01003 Issuing reclamation permits. (1) After July 1, 1994, the department shall not issue a reclamation permit until the applicant has:

- (a) Met all requirements of these rules and the act;
- (b) Provided documentation of SEPA review sufficient for the department to determine that the impacts of the proposal can be adequately mitigated;
- (c) Received the following approvals if required by state or local governments:

- (i) Approvals under local zoning and land use regulations;
- (ii) A shoreline permit;
- (iii) A hydraulic project approval; and/or
- (iv) All solid waste permits.

(2) When an applicant has met all provisions of subsection (1) of this section, these rules, and the act, the department shall issue a reclamation permit within thirty days. Appeals of any existing permits listed in subsection (1) of this section shall not stay the timely issuance of a reclamation permit.

NEW SECTION

WAC 332-18-01004 Denial of an application for a reclamation permit. The department may refuse to issue a reclamation permit or revised reclamation permit only if the applicant:

- (1) Fails to provide a complete application;
- (2) Provides a proposal that the department determines should be denied pursuant to RCW 43.21C.060 and WAC 332-41-665; or

(3) Is not in compliance with an order or notice of the department.

NEW SECTION

WAC 332-18-01005 Annual permit fees for county governments. For reclamation permits held by a county, the county shall pay annual fees for each permit as follows:

(1) For each surface mine having a permitted area greater than seven acres, the counties shall pay six hundred fifty dollars annually, whether or not the surface mine is active.

(2) For mines that are less than or equal to seven acres and are used exclusively for public works projects and from which minerals will be extracted during the next calendar year, the county shall also pay:

(a) Six hundred fifty dollars for one such mine;

(b) One thousand dollars for two such mines; and

(c) No additional annual fee for all other mines meeting the criteria of this subsection.

(3) Counties shall pay permit application fees but no annual fees for mines that are less than seven acres and from which minerals will not be extracted during the next calendar year.

AMENDATORY SECTION (Amending Order 86, filed 10/27/70, effective 11/28/70)

WAC 332-18-050 Inspections and cancellations of permits. The department shall have the right to ~~((make inspections of))~~ inspect any property at any ~~((reasonable))~~ time as ~~((deemed))~~ it determines is necessary to ((determine)) ensure there is compliance with the act, these rules, and the reclamation plan. Inspections shall be limited to those lands and ~~((such of))~~ the ~~((operator's))~~ permit holder's records ~~((as))~~ that pertain to surface ~~((mining and))~~ mine reclamation ~~((of such lands)).~~ ~~((The department shall notify, as deemed necessary, any operator of a proposed inspection. However, lack of such notification shall not be cause for denying the right to inspect. The operator shall have the option of accompanying the inspector.~~

~~Periodic inspections shall be made during the permit year by reclamation inspectors to insure compliance with the operating permit, reclamation plan, and the plan of surface mining. Any and) All deficiencies shall be ((immediately)) brought to the attention of the ((operator, and written notice specifying deficiencies shall be given to the operator. The operator shall commence action within thirty days to rectify these deficiencies and shall diligently proceed until the deficiencies are corrected. Provided, That deficiencies that also violate other laws that require earlier rectification shall be corrected in accordance with the applicable time provisions of such laws, or shall immediately commence action to rectify deficiencies that involve health, safety, and water pollution if those deficiencies are not regulated by such laws.~~

~~The department shall have grounds to terminate and cancel the operating permit if the operator does not commence action to rectify any and all deficiencies as specified above, or as specified in the act. The operator and his surety shall be notified of such termination and cancellation, said notice to be mailed to the last known address of the operator and surety))~~ miner or permit holder.

~~The department ((shall not)), at its option, may refuse to issue another permit to a ((deficient operator)) miner or permit holder who is in noncompliance with an order of the department until ((any and)) all deficiencies ((on a specific site)) are corrected to the satisfaction of the department((= Provided, That if the department's determination is under appeal a provisional permit may be issued, but an additional cash bond may be required if the department determines it necessary to assure rectification of the deficiencies)).~~

NEW SECTION

WAC 332-18-05001 Orders and notices of the department. (1) The department may issue orders and notices as described in the act and these rules. Before issuing the initial order related to a specific violation, the department shall attempt to hold a conference with the miner or permit holder. The purpose of the conference is to determine if a violation has occurred and, if so, to develop a plan to correct the violation and mitigate its impacts insofar as practicable.

(2) Orders and notices of the department shall set forth:

(a) The nature and extent, and if known, the time of the violation(s);

(b) The rights of the miner or permit holder to appeal; and

(c) Applicable time frames for corrective action and appeal.

(3) Orders and notices of the department shall be in writing and delivered to the miner or permit holder by mail or personal service.

NEW SECTION

WAC 332-18-05002 Time extensions and additional performance security. The department may grant an extension of the applicable compliance timetables if failure to comply with the permit, rules, or the act resulted from circumstances clearly beyond the control of the miner or permit holder. The extension may be granted for up to eighteen months. However, the extension may be revoked if the miner or permit holder is not, in the opinion of the department, making every reasonable effort to comply.

Additional performance security in a form acceptable to the department may be required if it is determined to be necessary to assure that the deficiencies are rectified.

NEW SECTION

WAC 332-18-05003 Civil penalties—Procedures. (1) If a miner or permit holder fails to comply with the act, these rules, the permit, the reclamation plan, or any order or emergency order of the department, the miner or permit holder may be subject to a civil penalty for each violation based upon the schedule of fines set forth in WAC 332-18-05004 and calculated according to WAC 332-18-05005.

(2) The penalty shall be imposed by a notice of penalties delivered by certified mail with return receipt requested or by personal service.

(3) The notice of penalties shall explain the base penalty and penalty calculation as outlined in WAC 332-18-05004 and 332-18-05005.

(4) If the penalty and interest are not paid to the department after these are due and payable, the attorney general, at the request of the department, may bring an action in accordance with RCW 78.44.250.

NEW SECTION

WAC 332-18-05004 Fines, base penalties schedule. In setting the amount of a civil penalty imposed under RCW 78.44.087, the department shall consider the following base penalty schedule:

(1) Category I. Fines of two hundred fifty dollars may be levied for each violation of the following:

(a) Failure to post the reclamation plan at the mine site if directed to do so by the department;

(b) Failure to install or maintain monuments;

(c) Failure to provide a new reclamation plan upon request;

(d) Failure to provide requisite solid waste permits to the department;

(e) Failure to route or provide drainage so that reclaimed surfaces are protected from erosion or mass wasting; and/or

(f) Excavation within the reclamation setbacks.

(2) Category II. Fines of five hundred dollars may be levied for each violation of the following:

(a) Failure to pay annual fees;

(b) Unauthorized sale of, or backfilling with, topsoil needed for reclamation;

(c) Failure to revegetate a segment within the first appropriate growing season;

(d) Surface mining outside the reclamation permit area;

(e) Failure to protect adjacent properties from erosion or slope failure;

(f) Failure to compact fill used for reclamation if such failure results in slope failure; and/or

(g) Any violation of an order of the department.

(3) Category III. Fines of one thousand dollars per day to a maximum of ten thousand dollars per day may be levied seven days per week for each violation of the following:

(a) Surface mining without a reclamation permit;

(b) Failure to provide performance security upon request;

(c) Failure to remove noxious, combustible, or compactible materials from the mine site;

(d) Failure to complete reclamation of a segment within two years after cessation of operations;

(e) Failure to comply with an emergency order of the department; and/or

(f) Failure to comply when more than one order of the department has been issued for the same violation.

NEW SECTION

WAC 332-18-05005 Calculation of penalty. Fines shall be calculated using the following steps:

(1) The base penalty shall be the minimum fine in each category as set forth in WAC 332-18-05004, unless mitigated pursuant to WAC 332-18-05007.

(2) The department may adjust the fine by multiplying the Category II and III base penalties by factors specific to the incident, miner or permit holder, and/or site. The

following factors shall not be imposed unless the department explains in writing how each factor was determined:

(a) Severity: The department shall adjust the penalty to reflect the extent or magnitude and difficulty of repairing the damage to lands, waters, and neighboring properties. This factor shall increase the base penalty by not more than 5.0 times the base penalty.

(b) Previous violation(s): The department shall consider whether the violator has had previous significant violations of the act, rules, permit, or reclamation plan as documented by an enforcement action. This factor shall increase the base penalty by not more than 3.0 times the base penalty.

NEW SECTION

WAC 332-18-05006 Penalties due. (1) Penalties imposed under this section shall become due and payable thirty days after receipt of a notice imposing the fine unless the miner or permit holder applies for mitigation or files an appeal.

(2) Thirty days after the miner or permit holder is notified that administrative review of penalties is complete, the penalty shall become due and payable.

(3) Thirty days after a penalty becomes due and payable, interest shall accrue at the maximum rate allowed by RCW 19.52.020 until the penalty is paid to the department.

NEW SECTION

WAC 332-18-05007 Civil penalties—Mitigation, appeals. (1) Within fifteen days after receiving a notice of penalties, the miner or permit holder may request the department to mitigate the penalty. The application must be in writing and delivered to the department at the following address:

Manager
Division of Geology and Earth Resources
Department of Natural Resources
P.O. Box 47007
Olympia, WA 98504-7007

(2) Upon receipt of the application for mitigation, the penalty may be reduced, dismissed, or left unaltered at the discretion of the department.

(3) The department shall give the miner or permit holder written notice of its decision within thirty days.

(4) If the department refuses to dismiss the penalty, a miner or permit holder may appeal the penalty to the pollution control hearings board as follows:

(a) Any such appeal must be received by the pollution control hearings board within thirty days after the miner or permit holder receives the written notice in response to the application for mitigation of the penalty;

(b) A copy of the appeal must be delivered to the department at the address given in subsection (1) of this section within the same thirty-day period; and

(c) The miner or permit holder must comply with the rules for appeals to the pollution control hearings board set out in chapter 371-08 WAC.

NEW SECTION

WAC 332-18-05008 Enforcement of penalties. If the penalty and/or applicable interest are not paid to the department within thirty days after these become due and payable, the attorney general, upon the request of the department, may bring an action in superior court to recover the penalty or interest. In all such actions, the procedures and rules of evidence shall be the same as in an ordinary civil action except as otherwise provided in the act.

NEW SECTION

WAC 332-18-05009 Adjudicative proceedings—Standing. A person has standing to obtain review of a department action concerning surface mining under chapter 78.44 RCW only if that person is aggrieved by the department's action. A person is aggrieved only when all three of the following conditions are present:

- (1) The department's action has prejudiced or is likely to prejudice that person;
- (2) That person's asserted interests are among those that the department was required to consider when it took the action being challenged; and
- (3) A decision in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the department's action.

AMENDATORY SECTION (Amending Order 605, filed 10/2/92, effective 11/2/92)

WAC 332-18-120 ((Bonds-)) Performance security.

(1) The performance security required by RCW 78.44.087 may be in the form of a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under Title 48 RCW.

(2) After July 1, 1995, performance bonds required by RCW ((78.44.120)) 78.44.087 shall be substantially in the following form, unless ((the department)), in considering any reclamation permit, the department determines that a different form is desirable or required.

SURFACE MINING RECLAMATION BOND

Permit No.

KNOW ALL ((MEN)) PEOPLE BY THESE PRESENTS, That we,, as Principal, and, a corporation organized and existing under the laws of the State of[,] and authorized to transact business in the State of Washington, as Surety, are held and firmly bound unto the State of Washington, acting through the Department of Natural Resources, in the sum of (\$) U.S. DOLLARS, for the payment of which sum we bind ourselves, and each of our legal representatives, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, The Principal has received from the Department of Natural Resources, State of Washington, ((a)) an operating or reclamation permit to conduct surface mining on the Premises whose legal description is in the portion of:

Sec(s), T,, N, R. (E)(W) W.M. (circle one):
Sec(s), T,, N, R. (E)(W) W.M. (circle one):

Sec(s), T,, N, R. (E)(W) W.M. (circle one):
Sec(s), T,, N, R. (E)(W) W.M. (circle one):
.....(counties)

NOW, THEREFORE, The conditions of this obligation are such that if the Principal, in conducting such surface mining operations, faithfully performs the requirements of the permit ((and chapter 78.44 RCW, relating to mining and the reclamation of surface mined land[,] and the Rules and Regulations adopted thereunder)), these rules, and the act, then this obligation shall be ((exonerated and discharged and become null and)) void; otherwise ((to)) the obligation shall remain in full force and effect. In accordance with ((section 78.44.120 of the Revised Code of Washington)) RCW 78.44.087, this bond secures completion of reclamation for the area to be surface mined and related costs after the signature date of this bond and any previously ((surface mined)) disturbed areas on the Premises on which reclamation has not been satisfactorily completed and approved.

PROVIDED, However, the Surety shall not be liable under this bond for an amount greater in the aggregate than the sum designated in the first paragraph hereof and any reasonable legal fees that the department may incur to recover the security under RCW 78.44.240. The Surety shall not be liable for surface mining performed on the Premises after a date sixty days after the Surety mails a cancellation notice to the Principal and the Department of Natural Resources, Olympia, Washington. The bond shall remain in full force and effect as respects obligations related to surface mining performed on the Premises before that date unless the Principal files a substitute bond or other performance security, approved by the Department of Natural Resources, or unless the Department of Natural Resources otherwise releases the Surety in writing.

Signed, sealed and dated this day of

((2)) (3) Bonds submitted under RCW ((78.44.120)) 78.44.087 shall contain a legal description of the area for which a ((surface mine operating)) reclamation permit has been issued. An acceptable legal description for bonds takes this form: "a portion of ((the NE 1/4 of)) sec. 15 T2N R3E." After July 1, 1994, the department will generally not accept metes and bounds descriptions.

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

AMENDATORY SECTION (Amending Order 605, filed 10/2/92, effective 11/2/92)

WAC 332-18-130 Bank letters of credit. ((The department may accept a bank letter of credit in lieu of the performance bond required by RCW 78.44.120-)) The

PERMANENT

performance security required by RCW 78.44.087 may be in the form of a bank letter of credit.

(1) The department will accept a bank letter of credit under RCW ~~((78.44.120))~~ 78.44.087 only if the letter of credit is established in an amount equal to the estimated cost of completing reclamation according to the approved reclamation plan or minimum reclamation standards and related administrative overhead for the area to be surface mined during the next ~~((twelve month))~~ thirty-six month period and any previously ~~((surface mined))~~ disturbed areas for which a reclamation permit has been issued and on which the reclamation has not been satisfactorily completed and approved.

(2) If the letter of credit is issued by a bank that has an office within the state of Washington, the department ~~((will))~~ may accept the letter of credit if it:

(a) Is issued by a bank that is financially sound and is authorized to do business in the state of Washington;

(b) Does not state that it is subject to the uniform customs and practice for documentary credits; and

(c) Is in the form described in subsection (4) of this section.

(3) If the letter of credit is issued by a bank that does not have an office within the state of Washington, the department ~~((will))~~ may accept the letter of credit if it:

(a) Is in the form described in subsection (4) of this section; and

(b) Is accompanied by a letter of confirmation that:

(i) Is issued by a bank that is financially sound, that is authorized to do business in the state of Washington, and that has an office within the state of Washington;

(ii) States that the confirming bank will honor the letter of credit; and

(iii) States that the letter of confirmation is subject to the Uniform Customs and Practice for Documentary Credits, 1983 revision, ICC Publication No. 400.

(4) Unless the department determines that a different form is desirable or required, any letter of credit filed with the department under RCW ~~((78.44.120))~~ 78.44.087 shall:

(a) Be in writing;

(b) Be signed by the issuer;

(c) Conspicuously state that it is a letter of credit and is issued on behalf of the person whose performance it is intended to secure;

(d) Identify the reclamation permit number to which it pertains;

(e) Identify the department of natural resources, state of Washington, as the sole beneficiary;

~~((e))~~ (f) State that it is irrevocable;

~~((f))~~ (g) State the date upon which it will expire and provide that the expiration date will be automatically extended for one year from that date or any future expiration date unless, no later than sixty days before any expiration date, the issuing bank notifies the department in writing by registered mail of the bank's election not to renew; and shall

~~((g))~~ (h) Expressly provide that any draft or demand for payment must be accompanied by the department's signed statement that the person whose performance the credit is intended to secure is in default of the obligations imposed by chapter 78.44 RCW.

NEW SECTION

WAC 332-18-140 Interest in real property in lieu of other performance security. (1) The department may, at its discretion, accept a security interest in real property instead of other performance security if the reclamation permit holder or applicant provides the following if required by the department:

(a) An opinion of value by a land appraiser licensed by Washington state indicating that the real property exceeds the amount of the performance security by at least one hundred percent;

(b) Suitable access, as determined by the department, for possible public entrance onto the property;

(c) A title insurance policy in favor of the department verifying clear title and indicating that the property is free of liens or other encumbrances; and

(d) Any other materials requested by the department, such as insurance to protect the department's interest in the real property or an environmental hazard assessment.

(2) The department may require additional opinions of value by a land appraiser licensed by Washington state to assure that the real property exceeds the amount of the performance security by at least one hundred percent.

NEW SECTION

WAC 332-18-150 Permit transfers. (1) The department shall approve permit transfers under the provisions of RCW 78.44.171 if the new permit holder provides the following documents:

(a) A revised reclamation plan together with:

(i) Written approval of all persons having a possessory interest in the land;

(ii) A revised Form SM-6 approved by the local government if a new subsequent use of the permit area is proposed;

(iii) A SEPA checklist. This checklist shall address only those impacts relating to the revised reclamation plan.

(b) Acceptable performance security as determined by the department pursuant to RCW 78.44.120.

(c) Written approval of the permit transfer signed by the former permit holder. The department may transfer the reclamation permit without the permission of the former permit holder if a declaration of abandonment has been issued according to RCW 78.44.220.

(d) Written notification from the new permit holder that they assume all duties of the former permit holder to reclaim the surface mine.

(2) The department may waive the requirement for a revised reclamation plan when it finds that the existing reclamation plan meets the minimum reclamation requirements.

(3) The department shall not transfer the reclamation permit until this permit and all others held by both the former and the new permit holders are in compliance with the act, these rules, the reclamation permit, and any orders of the department. This requirement may be waived upon approval of a plan and schedule that will result in compliance within eighteen months of the permit transfer date. This plan and schedule shall be considered as part of the reclamation plan, and failure to comply with the plan and schedule shall constitute violations of this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 332-18-015	Compliance with local regulations.
WAC 332-18-020	Provisional permit.
WAC 332-18-030	Combined operating permits.
WAC 332-18-040	Multiple operations at one site.
WAC 332-18-060	Confidential material.
WAC 332-18-070	Time extensions.
WAC 332-18-080	Preplanning.
WAC 332-18-090	Revegetation.
WAC 332-18-100	Water control.
WAC 332-18-110	Water impoundment.

3,001	-	3,500 tons	((1,300))	<u>1,383</u>
3,501	-	4,000 tons	((1,500))	<u>1,596</u>
4,001	-	4,500 tons	((1,700))	<u>1,809</u>
4,501	-	5,000 tons	((1,900))	<u>2,022</u>
5,001	-	5,500 tons	((2,100))	<u>2,235</u>
5,501	-	6,000 tons	((2,300))	<u>2,448</u>
6,001	-	6,500 tons	((2,500))	<u>2,661</u>
6,501	-	7,000 tons	((2,700))	<u>2,874</u>
7,001	-	7,500 tons	((2,900))	<u>3,087</u>
7,501	-	8,000 tons	((3,100))	<u>3,300</u>
8,001	-	8,500 tons	((3,300))	<u>3,513</u>
8,501	-	9,000 tons	((3,500))	<u>3,726</u>
9,001	-	9,500 tons	((3,700))	<u>3,939</u>
9,501	-	10,000 tons	((3,900))	<u>4,151</u>
10,001	+	tons	((4,100))	<u>4,364</u>

For purposes of this section, consumable debris is the amount of debris that the department determines will be consumed by the proposed burning.

(3) Written burning permits are not considered valid unless all of the following conditions apply:

(a) The written permit has been signed by the applicant agreeing to follow all requirements of chapter 332-24 WAC, the smoke management plan in effect at the time of the burning, and any additional terms and conditions specified by the department in writing; and

(b) The required permit fee has been secured or paid according to approved department procedures; and

(c) The person doing the burning has the permit in possession while burning and is complying with all terms and conditions of such permit, the smoke management plan in effect at the time of the burning, and all applicable portions of chapter 332-24 WAC.

(4) Permits are written only for the burn site and fuel quantity that is presented at the time of the inspection. Addition of fuel, or changing the burn site after the site inspection has been made, is prohibited unless a new inspection is made and an added permit fee is paid, if required.

**WSR 94-14-063
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES**

[Order 619—Filed July 1, 1994, 8:56 a.m.]

Date of Adoption: July 1, 1994.

Purpose: Amend WAC 332-24-221 to adjust the fee schedule to a level necessary to cover the costs of the burning permit program.

Statutory Authority for Adoption: RCW 70.94.660.

Pursuant to notice filed as WSR 94-08-093 on April 6, 1994.

Changes Other than Editing from Proposed to Adopted Version: Only change is to raise fee schedule by 6.46 percent.

Effective Date of Rule: Thirty-one days after filing.

July 1, 1994

Kaleen Cottingham
Supervisor

AMENDATORY SECTION (Amending Order 599, filed 6/30/92, effective 7/31/92)

WAC 332-24-221 Specific rules for burning that requires a written burning permit. Persons not able to meet the requirements of WAC 332-24-205 and 332-24-211 must apply for a written burning permit through the department. In addition to the rules outlined in WAC 332-24-205, the following are additional requirements for written permits:

(1) Written burning permits will be in effect for one year from the validation date, unless suspended or revoked.

(2) Fees for written burning permits will be charged and collected pursuant to chapter 70.94 RCW and shall be ~~((twenty))~~ twenty-one dollars for under one hundred tons of consumable debris; and for burns one hundred tons of consumable debris and greater as follows:

Consumable Debris	Fee schedule
100 - 500 tons	((100)) <u>\$106</u>
501 - 1,000 tons	((300)) <u>319</u>
1,001 - 1,500 tons	((500)) <u>532</u>
1,501 - 2,000 tons	((700)) <u>745</u>
2,001 - 2,500 tons	((900)) <u>958</u>
2,501 - 3,000 tons	((1,100)) <u>1,171</u>

**WSR 94-14-064
PERMANENT RULES
HIGHER EDUCATION
COORDINATING BOARD**
[Filed July 1, 1994, 9:38 a.m.]

Date of Adoption: March 30, 1994.

Purpose: Establish policies and procedures governing the running start program whereby high school students attend community college and earn both high school and college credit.

Statutory Authority for Adoption: RCW 28A.600.390, 28A.150.260, and [28A.150].290.

Pursuant to notice filed as WSR 94-01-112 on December 17, 1993.

Effective Date of Rule: Thirty days after filing.

June 30, 1994
Elson S. Floyd
Executive Director

PERMANENT

NEW SECTION

WAC 250-79-010 Adopting running start rules by reference. WAC 392-169-005 through 392-169-125 is hereby adopted by reference.

**WSR 94-14-065
PERMANENT RULES
TRANSPORTATION COMMISSION**

[Filed July 1, 1994, 11:27 a.m.]

Date of Adoption: June 25, 1994.

Purpose: Revise level of authority for corridor selection activities.

Statutory Authority for Adoption: RCW 47.01.071.

Pursuant to notice filed as WSR 94-08-054 on April 1, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 25, 1994

Alice B. Tawresey

Chair

**Chapter 468-48 WAC
HIGHWAY CORRIDOR AND
ALIGNMENT AUTHORITY**

NEW SECTION

WAC 468-48-010 Definitions. For the purposes of this chapter, the following definitions of the terms shall apply unless the context clearly indicates otherwise.

(1) "Department" means the Washington state department of transportation.

(2) "Route" means a statutory designated state highway, being a new highway or existing highway with new alignment, and is laid out as running to or by way of certain designated points, without specifying the particular way to be followed to or by way of such points. Each route may contain one or more corridors.

(3) "Corridor" means one of several general paths a highway can take to satisfy the route requirements and has one or more specific alignment alternatives. A corridor can include, as a whole or in part, any existing state highway facility, county highway facility, city street, new alignments or any combination of these.

(4) "Alignment" means the specific path a highway will take between two designated points within a corridor.

NEW SECTION

WAC 468-48-020 Selection of corridors and alignments for highway facilities. The secretary of transportation is hereby delegated the commission's authority to conduct all hearings and adopt a specific highway corridor whenever the general route has been designated but there are several alternatives within that route. The secretary is further delegated the authority of the commission contained in RCW 47.28.010.

Nothing herein shall be construed as to restrict the ability of the department to select specific alignments and design elements within the corridor as part of the design process.

**WSR 94-14-067
PERMANENT RULES
DEPARTMENT OF ECOLOGY**

[Filed July 1, 1994, 2:51 p.m.]

Date of Adoption: July 1, 1994.

Purpose: Repeal of chapters 173-402 and 173-440 WAC.

Citation of Existing Rules Affected by this Order: Repealing chapters 173-402 and 173-440 WAC.

Pursuant to notice filed as WSR 94-10-078 on May 4, 1994.

Effective Date of Rule: Thirty-one days after filing.

July 1, 1994

Mary Riveland

Director

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 173-402-010	Prior regulations.
WAC 173-402-020	Subsequent regulations.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 173-440-010	Purpose.
WAC 173-440-020	Applicability.
WAC 173-440-030	Definitions.
WAC 173-440-040	Sensitive areas designated.
WAC 173-440-100	Standards.
WAC 173-440-900	Appendix A—Map.

**WSR 94-14-069
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Filed July 1, 1994, 3:18 p.m.]

Date of Adoption: April 22, 1994.

Purpose: Amend personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-100, 220-56-105, 220-56-124, 220-56-128, 220-56-190, 220-56-191, 220-56-195, 220-56-235, 220-56-240, 220-56-245, 220-56-255, 220-56-285, 220-56-305, 220-56-307, 220-56-315, 220-56-320, 220-56-350, 220-56-380, 220-56-382, 220-56-390, 220-56-400, 220-56-405, 220-56-410, 220-57-130, 220-57-135, 220-57-140, 220-57-155, 220-57-200, 220-57-210, 220-57-215, 220-57-250, 220-57-255, 220-57-270, 220-57-280, 220-57-285, 220-57-300, 220-57-310, 220-57-319, 220-57-335, 220-57-350, 220-57-385, 220-57-400, 220-57-415, 220-57-425, 220-57-430, 220-57-435, 220-57-450, 220-57-455, 220-57-465, 220-57-473, 220-57-480, 220-57-490, 220-57-495, 220-57-520, 220-57-525, 220-57A-012, and 220-57A-152.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to notice filed as WSR 94-03-105 on January 19, 1994; and WSR 94-14-068 on July 1, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 220-16-460, redefine line to be due west from point of origin and to outer harbor line rather than inner harbor line; WAC 220-56-105, Elochoman River mouth definition withdrawn; WAC 220-56-128, allow fishery at Titlow Beach using artificial lures when fishing from shore or nonmotorized craft; WAC 220-56-190, ocean closed to salmon fishing for 1994; WAC 220-56-191, Puget Sound salmon seasons set per North of Falcon recommendations; WAC 220-56-195, Bellingham Bay closed through July 31; WAC 220-56-235, catch areas 5 through 7 rockfish limit set at 5 fish; WAC 220-56-245, daily halibut limit set at 1 fish; WAC 220-56-255, halibut seasons changed per Department of Commerce recommendations; WAC 220-56-285, Snake River sturgeon closure withdrawn; WAC 220-56-305, allow catch and release only upstream from Lower Granite Dam; WAC 220-56-315, crab gear use clarified in Hood Canal shrimp season, single buoy per unit of gear requirement extended to all inner Puget Sound; WAC 220-56-350, clam beach openings adjusted, WAC 220-56-380, oyster beach openings adjusted; WAC 220-56-400, abalone closed state-wide; WAC 220-57-130, allow retention of coho, earlier closing date; WAC 220-57-135, allow retention of coho, earlier closing date; WAC 220-57-200, allow retention of coho, earlier closing date; WAC 220-57-210, special bag limit season extension withdrawn; WAC 220-57-215, Dungeness River closed; WAC 220-57-230, proposal withdrawn; WAC 220-57-270, allow retention of coho, adjust seasonal openings; WAC 220-57-280, allow retention of coho, delay season opening; WAC 220-57-285, allow retention of coho, delay season opening; WAC 220-57-300, allow retention of coho, delay season opening; WAC 220-57-350, eliminate special coho bag limit; WAC 220-57-370, proposal withdrawn; WAC 220-57-385, allow retention of coho, earlier closing date; WAC 220-57-415, allow retention of coho, delay season opening; WAC 220-57-425, close all salmon fishing except chum salmon only during fall and downstream from Gilligan Creek; WAC 220-57-430, withdraw season extension in December; WAC 220-57-465, withdraw coho retention, delay opening date; WAC 220-57-520, allow retention of coho, delay season opening; WAC 220-57-525, allow retention of coho, delay season opening; WAC 220-57A-012, allow retention of sockeye salmon between 6 and 18 inches in length; and WAC 220-57A-152, allow retention of sockeye salmon between 6 and 18 inches in length.

Effective Date of Rule: Thirty-one days after filing.

June 29, 1994

Bruce A. Crawford
for Robert Turner
Director

NEW SECTION

WAC 220-16-460 Titlow Beach Marine Preserve Area. The "Titlow Beach Marine Preserve Area" is defined as all waters and tidal and submerged lands within a line beginning at the mean high water line at the southernmost point of the Tacoma Outboard Association leasehold, then projected due west to the intersection with the outer harbor line, then following the outer harbor line to a line projected due west from the old ferry dock at the foot of the Sixth

Avenue extension, then east on said line to the mean high water line, then following the mean high water line to the point of origin.

AMENDATORY SECTION (Amending Order 91-13, filed 4/2/91, effective 5/3/91)

WAC 220-56-100 Definitions—Personal use. (1) "Personal-use possession" and "daily bag limits" are defined as the numbers or pounds of food fish or shellfish which may be taken in a single day or held in possession at one time, unless otherwise provided:

(2) A "single hook" is defined as a hook having a single point or barb; a "double hook" as a hook having two points or barbs on a common shank; and a "treble hook" as a hook having three points or barbs on a common shank.

(3) A "lure" is defined as any object made of animal, vegetable or mineral materials which has attached thereto one or more hooks and is used as bait while angling for food fish.

(4) The term "processed" as it applies in this chapter is defined as food fish or shellfish which have been processed by heat for human consumption as kippered, smoked, or canned fish and is exclusive of iced, frozen, or salted fish.

(5) The term "fresh fish" is defined as salmon or other food fish which has not been processed by heat for human consumption and is inclusive of iced, frozen, or salted fish except that fresh fish as provided in WAC 220-56-180 shall not include frozen.

(6) "Hook and line" or "angling" shall be identical in meaning and, except as provided in WAC 220-56-115, shall be defined as the use of not more than one line with one lure in the act of fishing for personal use and not for sale or barter, to be attached to a pole held in hand while landing fish, or the use of a hand-operated line without rod or reel, to which may be attached not more than one lure. When fishing for bottomfish, "angling" and "jigging" shall be identical in meaning.

(7) The term "snag or snagging" is defined as any method of taking or attempting to take food fish with one or more hooks in such a manner that the fish does not take the hook or hooks voluntarily in its mouth.

(8) The term "underwater spearfishing" is defined as any method of taking or attempting to take food fish by using any object or objects to impale or hook fish while the fisherman is swimming or floating in the water.

(9) The term "bow and arrow fishing" is defined as any method of taking, or attempting to take, food fish by the use of an arrow equipped with a barbed head and a line attached, and propelled by a bow, as in the sport of archery, while the fisherman is above the surface of the water.

(10) The term "natural bait," unless otherwise provided, is defined as a lure consisting of an animal or part of an animal with one single hook.

(11) The term "freshwater area" means, for purposes of this chapter:

(a) Within any freshwater river, lake, stream, or pond.

(b) On the bank or within 10 yards of any freshwater river, lake, stream, or pond.

(c) On or within any boat launch, ramp, or parking facility associated with any freshwater river, lake, stream, or pond.

(12) The term "Bonilla-Tatoosh Line" is defined as a line projected from the most westerly point on Cape Flattery to the ~~((Tatoosh Island Light))~~ buoy adjacent Duntz Rock then to Bonilla Point on Vancouver Island.

(13) The term "Buoy 10 Line" is defined as a true north-south line projected through Buoy 10 near the mouth of the Columbia River.

(14) The term "Buoy 10 Fishery" is defined as a fishery between the down stream side of the Megler-Astoria Bridge and the Buoy 10 Line.

(15) The term "Channel Marker 13 Line" is defined as a true north-south line through Grays Harbor Channel Marker 13.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-105 River mouth definitions. When pertaining to food fish angling, unless otherwise defined, any reference to the mouths of rivers or streams shall be construed to include those waters of any river or stream including sloughs and tributaries upstream and inside of a line projected between the outermost uplands at the mouth. The term "outermost upland" shall be construed to mean those lands not covered by water during an ordinary high tide. The following river mouths are hereby otherwise defined:

Abernathy Creek - Highway 4 Bridge.

Bear River - Highway 101 Bridge.

Bone River - Highway 101 Bridge.

Chehalis River - U.P. Railway Bridge in Aberdeen.

Chinook River - The tide gates at the Highway 101 Bridge.

Cowlitz River - A line projected across the river between two fishing boundary markers set on each bank of the river approximately one-half mile downstream from the lowermost railroad bridge crossing the Cowlitz River.

Dakota Creek - A line from the outermost headland of the south bank to a house at 1285 Runge Avenue, Blaine, Washington, approximately one-quarter mile downstream from the Blaine Road Bridge.

Duwamish River - First Avenue South Bridge.

Elk River - Highway 105 Bridge.

Entiat River - Highway 97 Bridge.

Germany Creek - Downstream side of the Highway 4 Bridge.

Hoquaim River - Highway 101 Bridge.

Humptulips River - Mouth of Jessie Slough.

Johns River - Highway 105 Bridge.

Kennedy Creek - An arc 500 yards east of the midpoint of the northbound Highway 101 Bridge.

Lake Washington Ship Canal - Line 400 feet below the fish ladder at the Chittenden Locks.

Lewis River - A straight line running from a boundary marker on a piling at Austin Point southerly across the Lewis River to a boundary marker on the opposite shore.

Methow River - Highway 97 Bridge.

Mill Creek - Downstream side of the Highway 4 Bridge.

Naselle River - Highway 101 Bridge.

North Nemah River - Line from markers approximately one-half mile below the Highway 101 Bridge.

Niawiakum River - Highway 101 Bridge.

North River - Highway 105 Bridge.

Palix River - Highway 101 Bridge.

Puyallup River - 11th Street Bridge.

Samish River - The Samish Island Bridge (Bayview-Edison Road).

Sammamish River - ~~((Kenmore Highway))~~ 68th Avenue NE Bridge.

Skagit River - A line projected from the terminus of the jetty with McGlenn Island to the white monument on the easterly end of Ika Island, then to a white monument on the westerly end of Craft Island, then to a white monument near the corner of the levee on the westerly side of Dry Slough, and then to a white monument on the easterly side of Tom Moore Slough.

Skamokawa Creek - Highway 4 Bridge.

Skookum Creek - A line 400 yards below the old railroad bridge.

Snohomish River - Burlington Northern Railway Bridges crossing main river and sloughs.

South Nemah River - Lynn Point 117 degrees true to the opposite shore.

Tucannon River - State Highway 261 Bridge.

Wallace River - The furthest downstream railroad bridge.

Washougal River - A straight line from the Crown Zellerbach pumphouse southeasterly across the Washougal River to the east end of the Highway 14 Bridge near the upper end of Lady Island.

Whatcom Creek - A line projected approximately 14 degrees true from the flashing light at the south-westerly end of the Port of Bellingham North Terminal to the southernmost point of the dike surrounding the Georgia Pacific treatment pond.

White Salmon River - Highway 14 Bridge.

Little White Salmon River - At boundary markers on river bank downstream from the federal salmon hatchery.

Willapa River - Highway 101 Bridge.

Yakima River - Highway 240 Bridge.

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

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-124 Unlawful provisions—Hoodspout Hatchery. During the period October 16 through ~~((November 30))~~ December 15, those waters of Catch Record Card Area 12 within a 1,000 foot arc seaward of yellow buoys at the mouth of Finch Creek at the Hoodspout Salmon Hatchery are regulated as provided for in this section:

(1) These waters are open to salmon angling regardless of the status of the surrounding waters of Area 12.

(2) If the surrounding waters are open to salmon angling, the bag and possession limit are the same as in the surrounding waters. If the surrounding waters are closed, there is a special daily bag limit of three chum salmon.

(3) During the period October 16 through ~~((November 30))~~ December 15 it is unlawful to fish for or possess salmon taken from these waters from ~~((10:00))~~ 8:00 p.m. to 6:00 a.m.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

WAC 220-56-190 Coastal salmon—Saltwater seasons and bag limits. It shall be unlawful to take, fish for or possess salmon taken by angling for personal use except from the following coastal areas, during the seasons, in the quantities, sizes and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180:

(1) ~~((Strait of Juan de Fuca from the mouth of the Sekiu River to the Bonilla Tatoosh Line:~~

~~(a) May 1 through May 31 or chinook quota of 1,000, whichever occurs first—Bag Limit F except no coho may be retained.~~

~~(b) August 15 or when Area 4 quota is taken, whichever occurs later—Bag Limit F until coho quota of 12,000 taken.~~

~~(2) Pacific Ocean coastal waters: All waters west of the mouth of the Sekiu River, the Pacific Ocean, and Washington waters at the mouth of the Columbia River west of a line projected true north and south through Buoy 10.~~

~~(a) Catch Record Card Area 4—July 12 through September 30, or 19,700 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than six salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only.~~

~~(b) Catch Record Card Area 3—July 5 through September 30, or 4,000 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than six salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only.~~

~~(c) Catch Record Card Area 2 inside and shoreward of the 25 fathom curve—July 5 through September 30, or 77,100 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than four salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only.~~

~~(d) Catch Record Card Area 1—July 5 through September 9, or 96,300 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than four salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only. September 12—September 30, or 5,000 coho or overall coastal chinook quota of 25,000, whichever occurs first—Bag Limit F, except that no more than four salmon may be retained in any seven consecutive days—Open to salmon fishing Sunday through Thursday only. During the fisheries provided for in this section, waters described in WAC 220-56-195(8) (Columbia River Mouth Conservation Zone 1; Control Zone 1) are closed to salmon fishing.~~

~~(e) For purposes of this section, all salmon retained from Catch Record Card Areas 1, 2, 3, and 4, during the coastal salmon season except for salmon taken from Area 4 east of the Bonilla Tatoosh Line after August 15, and salmon~~

~~taken from Grays Harbor and Willapa Bay Areas 2-1 and 2-2 prior to August 16 count as part of the cumulative catch for the seven consecutive day period.~~

~~(3))~~ Catch Record Card Areas 1, 2, 3, 4 and those waters of the Strait of Juan de Fuca west of the mouth of the Sekiu River - Closed to salmon angling through December 31, 1994.

(2) Grays Harbor (Catch Record Card Area 2-2) (a) Open to salmon angling coincidentally with the season, daily and weekly bag limits, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2). Lawful to fish from the bank only of the north and south jetties 7 days per week when the recreational season is in progress in adjacent ocean waters, (b) Bag Limit A - ((August 16)) December 1 through ((September 15)) January 31 in the Westport and Ocean Shores boat basins only. There are additional restrictions at the Westport Boat Basin as provided for in WAC 220-56-123, (c) Bag Limit A - ((September 16)) December 1 through January 31: Waters of Catch Record Card Area 2-2 east of the Channel Marker 13 Line.

~~((4))~~ (3) Willapa Bay (Catch Record Card Area 2-1) (a) Open to salmon angling coincidentally with the season, daily and weekly bag limits, size, and gear restrictions in adjacent waters of the Pacific Ocean (Catch Record Card Area 2), (b) Bag Limit A - August 16 through January 31.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

WAC 220-56-195 Closed areas—Saltwater salmon angling. The following areas shall be closed to salmon angling during the times indicated:

(1) Skagit Bay: Those waters lying easterly of a line projected from West Point on Whidbey Island to Reservation Head on Fidalgo Island, northerly of a line projected from Polnell Point to Rocky Point, northerly of the state Highway 532 Bridge between Camano Island and the mainland and south of a line between the south end of McGlenn Island and the light at the south end of Fidalgo Island (Qk Fl) at the south end of Swinomish Slough shall be closed to salmon angling April 16 through June 15.

(2) Bellingham Bay: Those waters of Bellingham, Samish and Padilla Bays southerly of a line projected from the most westerly point of Gooseberry Point to Sandy Point, easterly of a line from Sandy Point to Point Migley thence along the eastern shoreline of Lummi Island to Carter Point, thence to the most northerly tip of Vendovi Island thence to Clark Point on Guemes Island following the shoreline to Southeast Point on Guemes Island thence to March Point on Fidalgo Island and north of the Burlington Railroad Bridges at the north end of Swinomish Slough shall be closed to salmon angling April 16 through July ~~((15))~~ 31.

(3) Carr Inlet:

(a) Those waters north of a line from Green Point to Penrose Point are closed to salmon angling from April 16 through July 31.

(b) Those waters of Carr Inlet within 1,000 feet of the outer oyster stakes at the mouth of Minter Creek are closed to salmon angling April 16 through September 30.

(c) Those waters of Carr Inlet and Hale Passage north of a line from Penrose Point to the Carr Inlet Acoustic

Range Naval Facility Pier and northwesterly of the Fox Island Bridge shall be closed to salmon angling from April 16 through June 15.

~~((4))~~ ~~(Dabob Bay: Those waters north of a line projected true east from Pulali Point are closed to salmon angling April 16 through August 15.~~

~~((5))~~ Dungeness Bay: Those waters westerly of a line projected 155 degrees true from Dungeness Spit Light to Kulakala Point are closed to salmon angling April 16 through June 30.

~~((6))~~ (5) Samish Bay: Those waters southerly of a line projected true east from Fish Point are closed to salmon angling August 1 through October 15.

~~((7))~~ (6) Port Susan: Those waters of Port Susan north of a line from Camano Head to Hermosa Point are closed to salmon angling April 16 through September 30.

~~((8))~~ (7) Columbia River Mouth Conservation Zone 1: Washington waters within Conservation Zone 1, which Conservation Zone is described as the ocean area surrounding the Columbia River mouth west of the Buoy 10 line and bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° true to 46°11'06" N. latitude and 124°11'00" W. longitude (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty are closed to salmon angling at all times except open to fishing from the north jetty when adjacent waters north of the Conservation Zone are open to salmon angling or the Buoy 10 fishery is open.

~~((9))~~ (8) Commencement Bay: Those waters east of a line projected from the Sperry Ocean Dock to landfall below the Cliff House Restaurant on the north shore of Commencement Bay are closed from April 16 through June 30.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-235 Possession limits—Bottomfish. It is unlawful, unless otherwise provided, for any one person to take in any one day more than the following quantities of bottomfish for personal use. The possession limit at any one time shall not exceed the equivalent of two daily bag limits of fresh bottomfish. Additional bottomfish may be possessed in a frozen or processed form. Unless otherwise provided bottomfish fishing is open the entire year.

(1) Coastal (Catch Record Card Areas 1 through 4):

(a) Lingcod:

(i) 3 fish in Catch Record Card Areas 1 through 3 and Area 4 west of the Bonilla-Tatoosh line;

(ii) 2 fish in Catch Record Card Area 4 east of the Bonilla-Tatoosh line.

(b) Rockfish - 12 fish except 15 fish if taken from Catch Record Card Area 1.

(c) Surfperch (excluding shiner perch) - 15 fish.

(d) Wolf-eel - 2 fish east of the Bonilla-Tatoosh line.

(e) Cabezon - 2 fish east of the Bonilla-Tatoosh line.

(f) All other species - no limit.

(2) Inner Puget Sound (Catch Record Card Areas 5 through 13):

(a) Catch Record Card Areas 5 and 6 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	((40)) 5 fish
Surfperch	10 fish
Pacific cod	15 fish
Pollock	15 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	2 fish
Cabezon	2 fish

(b) Catch Record Card Area 7 - 15 fish in the aggregate of all species of bottomfish, which may include no more than:

Rockfish	((40)) 5 fish
Surfperch	10 fish
Pacific cod	15 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish

(c) Catch Record Card Areas 8-1 through 13 - 15 fish in the aggregate of all species and species groups of bottomfish, which may include no more than:

Rockfish	((5)) 3 fish
Surfperch	10 fish
Pacific cod	2 fish
Pollock	5 fish
Flatfish (except halibut)	15 fish
Lingcod	1 fish
Wolf-eel	0 fish
Cabezon	2 fish

(d) It is unlawful to possess lingcod taken by angling less than 26 inches in length or greater than 40 inches in length.

(e) The daily bag limit taken by spear fishing may include no more than one lingcod. There is no size restriction on the one lingcod allowed in the daily bag limit if taken by spear fishing.

(f) It is unlawful to use a gaff to land lingcod taken in Catch Record Card Areas 5 through 13.

AMENDATORY SECTION (Amending Order 93-125, filed 10/20/93, effective 1/1/94)

WAC 220-56-240 Bag limits—Other food fish. It is unlawful for any one person to fish for or possess in any one day more than the following quantities and sizes of food fish taken for personal use. Unless otherwise provided, other food fish fishing is open the entire year:

(1) Sturgeon:

(a) 1 fish not less than 48 inches nor more than 66 inches in length in the Columbia River and tributaries upstream from the Dalles Dam to the United States/Canada border and those waters of the Snake River and tributaries from its mouth upstream to the powerline crossing below Highway 12 Bridge at Clarkston.

(b) 2 fish with the following size restrictions in all other state waters:

(i) Minimum size is 42 inches in length;

(ii) Maximum size is 66 inches in length;

(iii) Not more than one of the two fish may be less than 48 inches in length; and

(iv) Not more than one of the two fish may equal or exceed 48 inches in length.

(c) The possession limit is two daily bag limits of fresh sturgeon. Additional sturgeon may be possessed in a frozen or processed form.

(d) There is an annual personal use bag limit of 10 sturgeon.

(2) Smelt: 20 pounds. The daily bag limit and the possession limit are the same. It is unlawful for any person to possess more than 20 pounds of smelt at any time.

(3) Herring: 20 pounds fresh. Additional herring may be possessed in a frozen or processed form.

(4) All other food fish not otherwise provided for in this chapter: No limit.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-245 Halibut—Bag and possession limits. (1) It is unlawful to fish for or possess more than ~~((a)) 1 halibut taken from ((Catch Record Card Areas 1, 2, 3, and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh Line))~~ state or United States waters in any one day.

~~((b) 2 halibut taken from those waters of Catch Record Card 4 east of the Bonilla-Tatoosh Line and Catch Record Card Areas 5 through 13.))~~

(2) The possession limit shall not exceed one daily bag limit of fresh halibut.

AMENDATORY SECTION (Amending WSR 93-15-011, filed 7/8/93, effective 8/8/93)

WAC 220-56-255 Halibut—Season. It is unlawful to fish for or possess halibut taken for personal use except from:

(1) Catch Record Card Areas 1 and 2: ~~((May 20 through))~~ June ((10—Thursdays and Fridays only. July 2 through September 30—Fridays only)) 2 and June 9.

(2) Catch Record Card Area 3 and those waters of Catch Record Card Area 4 west of the Bonilla-Tatoosh line: ~~((May 1 until 85 percent of the quota has been taken; July 2 until the quota has been taken Fridays and Saturdays only))~~ 12:01 a.m. Tuesday through 11:59 p.m. Saturday, beginning May 3, except that the following area southwest of Cape Flattery is closed to halibut fishing at all times:

Those waters within a line from 48°17'N, 125°10'W to 48°17'N, 125°00'W to 48°05'N, 125°10'W to 48°05'N, 125°00'W to the point of origin.

(3) Catch Record Card Area 4 east of the Bonilla-Tatoosh line and Catch Record Card Areas 5 through 13: ~~May ((+3)) 2 through July ((+8)) 5 - Open 12:01 a.m. Thursday through 11:59 p.m. Tuesday of each week during the open period (closed Wednesdays).~~

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-285 Shad and sturgeon—Areas and seasons. It is lawful the entire year to fish for or possess

sturgeon and shad taken for personal use except in the following closed waters:

(1) Waters lying one mile downstream below any rack, dam or other obstruction concurrent with salmon angling boundaries provided for in chapter 220-57 WAC, except as provided in subsections (2) and (3) of this section.

(2) Waters lying 400 feet downstream below any dam, rack or obstruction in the Snake River.

(3) Columbia River waters between the upstream line of Bonneville Dam and the lowermost Bonneville powerline crossing, approximately 1-1/4 mile downstream from the dam, are closed to the fishing for or possession of sturgeon, except when fishing with hand-casted hook and line gear from the mainland shore in those waters lying downstream of a line running southerly from a fishing boundary marker on the Washington shore (approximately 3/4 mile downstream from the dam) to the downstream end of Cascade Island thence to the Oregon angling boundary marker on Bradford Island (located approximately ~~((600))~~ 850 feet downstream from the fish ladder entrance to the lowermost Bonneville Dam powerline crossing. Closed to angling inside the south navigation lock at Bonneville Dam from a marker on the westernmost point of Robins Island to a marker on the Oregon mainland shore.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-315 Crabs, shrimp, crawfish—Unlawful acts. (1) It is unlawful to take and possess crabs, shrimp, and crawfish taken for personal use except by hand or with hand dip nets, ring nets, shellfish pots, and any hand-operated instrument that will not penetrate the shell.

(2) It is unlawful to use more than two units of gear at any one time except:

(a) In Puget Sound waters other than Shrimp District 5 it is unlawful to use at any one time more than two units of gear for the purpose of taking crabs and two additional units of gear for the purpose of taking shrimp.

(b) In Shrimp District 5 (Hood Canal) it is unlawful to use more than one shrimp pot and one ~~((crab pot))~~ star trap or ring net during the Hood Canal shrimp season. ((Only one unit of gear may be attached to a buoy during the Hood Canal shrimp fishery.))

(3) It is unlawful for any person to operate a shellfish pot not attached to a buoy bearing that person's name, except that a second person may assist the pot owner in operation of the gear.

(4) It is unlawful to salvage or attempt to salvage shellfish pot gear from Hood Canal that has been lost without first obtaining a permit authorizing such activity issued by the director, and it is unlawful to fail to comply with all provisions of such permit.

(5) It is unlawful to fish for or possess crab taken for personal use from the waters of Fidalgo Bay within 25 yards of the Burlington Northern Railroad trestle connecting March Point and Anacortes.

(6) It is unlawful to fish for or possess crab taken for personal use with shellfish pot or ring net gear from the waters of Padilla Bay or Swinomish Slough within 25 yards of the Burlington Northern Railroad crossing the northern

end of Swinomish Slough except from one hour before official sunrise to one hour after official sunset.

(7) It is unlawful to dig for or possess ghost or mud shrimp taken for personal use by any method except hand operated suction devices or dug by hand.

(8) One unit of gear is equivalent to one ring net or one shellfish pot.

(9) In Catch Record Card Areas 5 through 13 (Puget Sound east of the Sekiu River) each unit of gear must be attached to its own buoy line and have a separate buoy for each unit of gear.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-320 Shellfish gear—Unlawful acts. (1)

It is unlawful for the owner or operator of any personal use shellfish gear to leave such gear unattended in the waters of the state unless said gear is marked with a buoy to which shall be affixed in a permanent visible and legible manner the first and last name and permanent mailing address of the operator, and in the case of Hood Canal shrimp gear, the name and address must appear exactly as it occurs on the recreational license form. It is unlawful for more than one person's name and address to appear on the same marker buoy. Unattended shellfish gear left in the waters of Puget Sound must have the line attaching the buoy to the pot weighted sufficiently to prevent the line from floating on the water's surface. The following additional requirements apply to buoys attached to unattended shellfish pots in Puget Sound waters:

(a) All buoys must consist of durable material and remain floating on the water's surface when at least 5 pounds of weight are attached. It is unlawful to use bleach, antifreeze or detergent bottles, paint cans or any other container.

(b) All buoys attached to shrimp gear must be yellow or fluorescent yellow in color. Flags and staff, if attached, may be any color.

(c) All buoys attached to crab gear must be half red or half fluorescent red in color and half white in color. Flags and staff, if attached, may be any color.

(d) The number of pots attached to each buoy must be marked on the buoy in a manner that is visible and legible at all times.

(2) The maximum perimeter of any shrimp pot shall not exceed 10 feet, and the pot shall not exceed 1-1/2 feet in height.

(3) It is unlawful to fish for or possess crab taken with shellfish pot gear that are equipped with tunnel triggers or other devices which prevent free exit of crabs under the legal limit unless such gear is equipped with not less than one escape ring not less than 4-1/8 inches inside diameter located in the upper half of the crab pot.

Effective January 1, 1996, it is unlawful to fish for crab with shellfish pot gear unless such gear has two escape rings located in the upper half of the pot:

(a) Not less than 4-1/4 inches ~~((in))~~ inside diameter if used in Puget Sound outside Hood Canal; or

(b) Not less than 4-1/8 inches ~~((in))~~ inside diameter if used in Hood Canal, the Columbia River, Grays Harbor, Willapa Bay, or the Pacific Ocean.

(4) It is unlawful to take, fish for or possess shrimp taken for personal use with shellfish pot gear in the waters of Hood Canal southerly of the site of the Hood Canal Floating Bridge unless such gear meets the following requirements:

(a) The entire top, bottom, and sides of the shellfish pots must be constructed of mesh material and except for the entrance tunnels have the minimum mesh opening size defined below.

(b) The minimum mesh opening size for Hood Canal shrimp pots is defined as a mesh that a 7/8-inch square peg will pass through each mesh without changing the shape of the mesh opening.

(c) All entrance tunnels must open into the pot from the side.

(d) The sum of the maximum widths of all entrance tunnels must not exceed 1/2 the perimeter of the bottom of the pot.

(5) It is unlawful to fish for or possess shellfish taken for personal use with shellfish pot gear unless the gear allows for escapement using at least one of the following methods:

(a) Attachment of pot lid hooks or tiedown straps with a single strand or loop of untreated, 100 percent cotton twine no larger than thread size 120 so that the pot lid will open freely if the twine or fiber is broken.

(b) An opening in the pot mesh no less than three inches by five inches which is laced or sewn closed with untreated, 100 percent cotton twine no larger than thread size 120. The opening must be located within the top half of the pot and be unimpeded by the entry tunnels, bait boxes, or any other structures or materials.

(c) Attachment of pot lid or one pot side serving as a pot lid with no more than three single loops of untreated 100 percent cotton or other natural fiber twine no larger than thread size 120 so that the pot lid or side will open freely if the twine or fiber is broken.

(6) Shellfish pots must be set in a manner that they are covered by water at all times.

AMENDATORY SECTION (Amending WSR 93-15-011, filed 7/8/93, effective 8/8/93)

WAC 220-56-350 Clams other than razor clams, cockles, borers, mussels—Areas and seasons. (1) It is lawful to take, dig for and possess clams, cockles, borers and mussels taken for personal use on Puget Sound the entire year except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point - DNR Beach 57-B is open April ~~((46))~~ 1 through ~~((May))~~ August 15.

(b) Camano Island State Park: Open June 1 through June 30.

(c) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of clams the entire year except as follows: State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(d) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of clams.

(e) Eagle Creek: Open January 1 through May 15.

(f) Fort Flagler State Park: Open April ((+6)) 1 through June ((+5)) 30.

((+d)) (g) Garrison Bay: Tidelands at Guss Island and those tidelands ((south of a boundary marker located approximately 1,010 yards southerly of Bell Point)) at British camp between the National Park Service dinghy dock at the north end and the park boundary at the south end are closed the entire year.

((+e)) (h) Hoodspout: Tidelands at Hoodspout Salmon Hatchery are closed the entire year.

((+f)) (i) Hope Island State Park (South Puget Sound): Open April ((+6)) 1 through June ((30)) 15.

((+g)) (j) Illahee State Park: Open April ((+6)) 1 through ((July 31)) April 30.

((+h)) (k) Kayak Point County Park: All tidelands are closed except tidelands north of the county fishing pier are open April 16 through May 15 of even-numbered years and tidelands south of the county fishing pier are open April 16 through May 15 of odd-numbered years.

(l) Kitsap Memorial State Park: Open April 1 through June 30.

(m) Kopachuck State Park: Open January 1 through April 15.

(n) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of clams the entire year.

(o) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of clams the entire year except as follows: State-owned Oyster Reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of the inlet will remain open.

((+i)) (p) Oak Bay((,-East)) County Park: Open ((April +6)) January 1 through ((May 31)) June 15.

((+j)) Oak Bay, West: Open April 16 through June 30.

((+k)) (q) Oyster Reserves: Puget Sound state oyster reserves are closed the entire year except the following are open the entire year:

(i) Case Inlet: Tidelands on the east side of North Bay at the north end of the inlet.

(ii) Oakland Bay: Tidelands on the channel of the northwest shore of the Bayshore Peninsula between department markers.

((+l)) (r) Penrose Point State Park: Open April 16 through ((April 30)) December 31.

((+m)) (s) Point Whitney: Open April ((+6)) 1 through May 31.

((+n)) (t) Point Whitney Lagoon: Open ((May 15)) June 1 through ((May 31)) June 15.

((+o)) Point White: Open April 16 through September 30.

(u) Port Townsend Ship Canal: Open January 1 through May 15.

(v) Saltwater State Park: Open April 1 through April 30.

(w) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed to the harvest of clams the entire year.

((+p)) Rendsland Creek: Open April 16 through June 15.
((+q)) (x) ((Shine Tidelands: Open April 16 through July 15)) South Indian Island County Park: Open April 1 through December 31.

((+r)) (y) South Lilliwaup: Open January 1 through May 31 on those tidelands marked by orange posts attached to trees at south end of Lilliwaup Bay (approximately 700 feet of beach).

(z) Spencer Spit State Park: Open April ((+6)) 1 through ((July 31)) June 30.

((+s)) (aa) Strait of Juan de Fuca: All beaches west of the tip of Dungeness Spit: Open November 1 through March 31.

((+t)) (bb) Triton Cove State Park: Open April 1 through June 30.

(cc) Twanoh State Park: Closed the entire year.

(dd) West Dewatto: DNR beach 44A is closed the entire year.

(ee) Wolfe Property State Park: Open January 1 through May 15 from 7 Sisters Road north to spit connecting Hood Head to the mainland.

(2) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams, taken for personal use in Grays Harbor and Willapa Harbor the entire year, except from state oyster reserves, which are closed to clam digging the entire year.

(3) It is lawful to take, dig for and possess clams, cockles, borers, and mussels, not including razor clams taken for personal use from the Pacific Ocean beaches from November 1 through March 31.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-380 Oysters—Areas and seasons. (1) It is lawful to take and possess oysters taken for personal use from public tidelands the entire year, except that public tidelands at the following beaches are closed unless otherwise provided:

(a) Brown Point: DNR Beach 57-B is closed the entire year.

(b) ((Dewatto Bay: DNR Beach 44-A is open April 16 through July 15.)) Dabob Bay - All state-owned tidelands in Dabob Bay north of a line drawn from Camp Harmony to Lindsays Beach are closed to the harvest of oysters the entire year, except as follows: State-owned tidelands from a row of tires at Camp Discovery south approximately 2,000 feet to a second row of tires, and state-owned tidelands beginning approximately 3/4 mile north of Camp Harmony extending approximately 1,200 feet north.

(c) ((Eagle Creek: Open April 16 through July 31.)) Duckabush - All state-owned tidelands on the west shore of Hood Canal from Quatsap Point to the south end of the Duckabush flats are closed to the harvest of oysters the entire year.

(d) Hoodspout: Tidelands at the Hoodspout Salmon Hatchery are closed the entire year.

(e) Illahee State Park: Open ~~((April 16))~~ January 1 through April 30.

(f) Kitsap Memorial State Park: Open ~~((May 16))~~ April 1 through June 30.

(g) Liberty Bay - All state-owned tidelands in Liberty Bay north and west of the Keyport Naval Supply Center are closed to the harvest of oysters the entire year.

(h) Mystery Bay State Park: Open January 1 through August 15.

(i) North Bay - All state-owned tidelands in North Bay (Case Inlet) north of a line drawn southwest from Rocky Point to the north end of Reach Island thence due west to the mainland are closed to the harvest of oysters the entire year, except as follows: State-owned Oysters Reserves on the east side of North Bay north of the power transmission lines which cross the bay at the north end of the inlet will remain open.

~~((g))~~ (j) Oyster Reserves: All Puget Sound oyster reserves are closed the entire year.

~~((h))~~ (k) Point Whitney Lagoon: ((Open July 1 through July 31)) Closed the entire year.

~~((i))~~ (l) Potlatch State Park: Open April ((16)) 1 through ((July 15)) June 30.

~~((j))~~ (m) Potlatch: Beach 27044 is open April 16 through May 31.) (n) Quilcene Bay - All state-owned tidelands in Quilcene Bay north of a line drawn from the Quilcene Boat Haven to Fisherman's Point are closed.

~~((k))~~ (o) Rendsland Creek: Open April ((16)) 1 through ((July 31)) June 30.

~~((l))~~ (p) Seenie Beach State Park: Open April 16 through July 15.

~~((m))~~ (q) Triton Cove State Park: Open April ((16)) 1 through ((July 15)) June 30.

(r) Twanoh State Park: Open January 1 through July 31.

(s) West Dewatto: DNR beach 44A is open April 1 through June 15.

(2) It is unlawful to pick or take oysters for personal use from waters measuring more than two feet in depth at the time of removal.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-382 Oysters and clams on private tidelands—Personal use. (1) WAC 220-56-340 through 220-56-355, 220-56-375 through 220-56-380 and 220-56-385 shall not apply to private tideland owners or lessees of state tidelands or immediate family members taking or possessing oysters, clams, cockles, borers and mussels for personal use from their own tidelands or leased state tidelands.

(2) ~~((It shall be unlawful for private tideland owners or lessees of state tidelands to allow any person other than the owner or lessee or immediate family of the owner or lessee to transport or possess unfrozen or unprocessed oysters, clams, cockles, borers, or mussels away from their owned or leased tidelands or adjoining owned or leased uplands in excess of the daily bag limit. Immediate family for purposes of this section means spouse, grandparent, parent, sibling, child, or grandchild. Immediate family members may take up to two times the daily bag limit of shellfish as provided for in WAC 220-56-310. Immediate family members~~

~~possessing written authorization on their person may take shellfish in amounts not exceeding the presumption commercial harvest amounts in RCW 69.30.010(8). No person may take commercial quantities of shellfish without department of health certification.~~

~~(3))~~ This section shall not apply to razor clams.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-390 Squid, octopus. (1) It is lawful to take fish for squid and octopus the entire year.

(2) It is unlawful to take, fish for or possess squid taken for personal use with more than one line. A maximum of four squid lures may be used. If gear utilizes conventional hooks, it shall not exceed a total of nine points. Herring rakes and hand dip net gear may be used to take squid. Octopus may be taken by hand or by any instrument which will not penetrate or mutilate the body except that it is lawful to retain octopus taken while angling with hook and line gear.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-56-400 Abalone. ~~((1) It is unlawful to remove undersized abalone from an attachment. Persons fishing for abalone must possess a 4 inch caliper and use it to determine if the abalone is of legal size before it is removed from its attachment.~~

~~(2) The first three legal size abalone taken must be retained, and it is unlawful to detach abalones once the daily bag limit has been taken.~~

~~(3) It is unlawful to possess in the field any abalone taken for personal use which has the shell removed.~~

~~(4) Abalone harvest is limited to use of hands or abalone irons. Abalone irons must be less than 24 inches in length, straight, wider than 3/4 inch and thicker than 1/16 inch. All edges must be rounded. Use of curved irons, knives, or other sharp instruments is prohibited.)~~ It is unlawful to fish for or possess abalone taken for personal use the entire year.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-405 Sea urchins. (1) It is lawful to fish for sea urchins for personal use the entire year.

(2) It shall be lawful to take, fish for and possess sea urchins for personal use with any hand-operated instrument which does not penetrate the shell.

AMENDATORY SECTION (Amending Order 80-12, filed 2/27/80, effective 4/1/80)

WAC 220-56-410 Sea cucumbers. (1) It is lawful to fish for sea cucumbers for personal use the entire year.

(2) It shall be lawful to take, fish for and possess sea cucumbers for personal use with any hand-operated instrument which does not penetrate the animal.

NEW SECTION

WAC 220-56-123 Unlawful provisions—Westport Boat Basin. During the period July 1 through November 30, in the waters of the Westport Boat Basin:

(1) It is unlawful to fish for or possess salmon taken for personal use using any gear other than the gear provided for in this section:

(a) Nonbuoyant lures are defined as lures that do not have enough buoyancy to float in freshwater. Nonbuoyant lures other than natural bait lures must have no more than one single hook and that hook may not exceed 3/4 inch from point to shank. Nonbuoyant natural bait lures may have no more than two single hooks each of which may not exceed 3/4 inch from point to shank.

(b) Buoyant lures are defined as lures that have enough buoyancy to float in freshwater and may have any number of hooks.

(c) No leads, weights, or sinkers may be attached below or less than 12 inches above a lure.

(d) All hooks must be attached within 3 inches of the bait or lure.

(2) It is unlawful to fish for or possess food fish or shellfish from one hour after official sunset to one hour before official sunrise.

(3) It is unlawful to use baitfish jigger gear.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

WAC 220-56-191 Puget Sound salmon—Saltwater seasons and bag limits. It is unlawful to fish for or possess salmon taken by angling for personal use except from the following Puget Sound areas, during the seasons, in the quantities, sizes, and for the species designated in this section and as defined in the bag limit codes in WAC 220-56-180. Puget Sound waters west of the mouth of the Sekiu River are managed concurrent with ocean waters as provided for in WAC 220-56-190.

(1) ~~((Catch Record Card Areas 5 and 6:~~

~~(a) May 1 through June 15—Special daily bag limit of two salmon, except that all chinook salmon greater than 30 inches in length and all coho salmon must be released. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(b) June 16 through July 15—Special daily bag limit of two salmon, except that all coho salmon must be released. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(c) July 16 through September 6—Special daily bag limit of two salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(d) September 7 through October 31—Closed to salmon angling.~~

~~(e) November 1 through April 30—Bag Limit H, except that after April 15, all chinook greater than 30 inches in length must be released.~~

~~(2) Catch Record Card Area 7:~~

~~(a) November 1 through June 30—Bag Limit H, except during the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.~~

~~(b) July 1 through October 31—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(3) Catch Record Card Area 8 1:~~

~~(a) November 1 through June 30—Bag Limit H.~~

~~(b) July 1 through September 6—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(c) September 7 through October 31—Closed to salmon angling.~~

~~(4) Catch Record Card Area 8 2:~~

~~(a) November 1 through June 30—Bag Limit H.~~

~~(b) July 1 through October 31—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(5) Catch Record Card Area 9:~~

~~(a) November 1 through June 30—Bag Limit H.~~

~~(b) July 1 through September 6—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(c) September 7 through September 30—Closed to salmon angling except:~~

~~(i) Fishing allowed when fishing from the Edmonds Public Fishing Pier—Special daily bag limit of 2 salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

~~(ii) Fishing for pink salmon allowed in those waters west of Whidbey Island from Bush Point to Lagoon Point and within one quarter mile of the shoreline—Special daily bag limit of 2 pink salmon and all other salmon must be released. In the fishery provided for in this subsection, terminal gear is limited to pink or red artificial squid lures with barbless hook(s). Either a single hook with single or double points or not more than two single hooks may be used. A flasher or dodger may be used. Bait of any kind is prohibited.~~

~~(d) October 1 through October 31—Special daily bag limit of 2 salmon, except that all coho salmon must be released. Chinook minimum size is 22 inches in length, but there is no minimum size for other salmon.~~

~~(6) Catch Record Card Areas 10, 11, and 13—Bag Limit G.~~

~~(7) Catch Record Card Area 12—Special daily bag limit of 3 salmon of which no more than 2 may be chinook salmon. Chinook minimum size is 22 inches, but there is no minimum size for other salmon.~~

(8)) Catch Record Card Areas 5 and 6 - November 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon. During the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.

(2) Catch Record Card Area 7:

(a) May 1 through September 5 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon. During the period April 16 through June 15 all chinook salmon greater than 30 inches in length must be released.

(b) September 6 through October 31 - Daily bag limit of 1 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(c) November 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(3) Catch Record Card Area 8-1:

(a) May 1 through October 31 - Open only in those waters of Oak Harbor west of a line from Forbes Point to Blowers Bluff. Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(b) November 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(4) Catch Record Card Area 8-2:

(a) August 1 through October 31 - Open only in those waters adjacent Tulalip Bay west of a line from Mission Point to Hermosa Point and within 2,000 feet from shore between the pilings at Old Bowers Resort northerly to a fishing boundary marker approximately 1.4 miles northwest of Hermosa Point. Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(b) September 1 through October 31 - Open only in those waters at the Snohomish River mouth east of a line from Priest Point to the northernmost point of the Snohomish River entrance jetty, and waters inside of a line from the lighted buoy at the southern tip of the Snohomish River entrance jetty to the green lighted bell buoy westerly of the entrance to the Snohomish River, thence southerly to the railroad overpass tower at Pidgeon Creek. Daily bag limit of 2 salmon, except no chinook or pink salmon may be retained. No minimum size for retained salmon.

(c) November 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(5) Catch Record Card Area 9:

(a) May 1 through June 30 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(b) July 1 through October 31 - Open only when fishing from the Edmonds public fishing pier. Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(c) November 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(6) Catch Record Card Area 10:

(a) May 1 through June 30 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(b) July 1 through August 31 - Open only when fishing from the Seacrest Park Fishing Pier. Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(c) July 1 through October 15 - Open only in those waters adjacent to and westerly of Bainbridge Island defined as all waters west of a line from the Indianola Dock to Point Monroe and waters west of a line from Beans Point to Orchard Point, and open only in those waters of Allen Bank within a line from the southeast tip of Blake Island to the east tip of the Southworth Ferry Dock, then to the buoy at the northerly tip of Vashon Island, then to the buoy at the northeasterly tip of Blake Island, then to point of origin.

Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(d) September 1 through October 15 - Open only in those waters of Elliott Bay east of a line from Alki Point to Fourmile Rock. Daily bag limit of 2 salmon. Chinook minimum size 22 inches and no minimum size for other salmon.

(e) October 16 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(7) Catch Record Card Area 11 - May 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(8) Catch Record Card Area 12 - November 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(9) Catch Record Card Area 13 - May 1 through December 31 - Daily bag limit of 2 salmon. Chinook minimum size 22 inches, and no minimum size for other salmon.

(10) In the above waters there are specified closures as provided for in WAC 220-56-128 and 220-56-195. Additionally, there are gear and area restrictions at Shilshole Bay, the Duwamish Waterway, and Budd Inlet, and at Titlow Beach and the Edmonds underwater park and the Elliott Bay, Les Davis, and Des Moines public fishing piers. See specific sections in chapter 220-56 WAC for salmon angling restrictions at these locations.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-307 Shellfish—Closed areas. It is unlawful to fish for or possess shellfish taken for personal use from the following areas:

(1) The San Juan Islands Marine Preserve Area, except that it is lawful to take crab for personal use from Parks Bay, using personal use crab gear.

(2) Waters within 200 yards of the salmon net pens located near Sund Rock in Hood Canal, except that it is lawful to take shrimp during the Hood Canal shrimp season provided for in WAC 220-56-325.

(3) The Titlow Beach Marine Preserve Area.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-56-128 Food fish fishing—Closed areas. It is unlawful to fish for or possess food fish taken from the following areas during the times indicated.

(1) It is unlawful at all times to fish for or possess food fish taken for personal use in waters lying within one mile below any fish rack, fishway, dam or other artificial or natural obstruction, either temporary or permanent, unless otherwise provided.

(2) Waters of Budd Inlet at Olympia south of the Fourth Avenue Bridge are closed at all times, and all contiguous waters lying between the Fourth Avenue Bridge and a line from the northwesterly corner of the Bayview Market Building to a point 100 yards north of the railroad bridge located on the western side of the inlet opposite the Bayview

Market Building are closed during the period July 16 through October 31.

(3) The waters of Percival Cove are closed at all times.

(4) Those waters of Hood Canal (~~within a radius of one hundred feet from the confluence~~) inshore from yellow marker buoys to the mouth of Finch Creek (~~with tidewater adjacent to the Hood Canal Salmon Hatchery~~) are closed (~~December 1 through October 31. Those waters within 50 feet of the confluence are closed from November 1 through November 30~~) the entire year.

(5) Waters within a radius of 100 yards from the Enetai Hatchery Outfall Creek where it enters saltwater are closed at all times.

(6) Those waters of Sinclair Inlet inside a line fifty yards from the pierhead line of the Puget Sound Naval Shipyard at Bremerton are closed at all times.

(7) Those waters of Hood Canal within 100 feet of the Seabeck Highway Bridge over Big Beef Creek are closed August 1 through November 30.

(8) In Shilshole Bay waters east of the Burlington Northern Railroad Bridge are closed to salmon angling. For food fish other than salmon, those waters easterly of the Burlington Northern Railroad Bridge are closed June 1 through September 30. During the period October 1 through May 31 it is lawful to fish for food fish other than salmon up to the mouth of the Lake Washington Ship Canal.

(9) Those waters of the Chinook River upstream from tide gate at the Highway 101 Bridge are closed at all times.

(10) Those waters of the Columbia River between the Vernita Bridge and the Hanford power line crossing (wooden towers at S24, T13N, R27E) are closed October 23 through June 15.

(11) Those waters of the Columbia River between the upstream line of Bonneville Dam to a point 600 feet below the fish ladder at the new Bonneville Dam Powerhouse are closed at all times.

(12) Waters of the Lake Washington Ship Canal west of a north-south line 400 feet east of the eastern end of the north wing wall of Chittenden Locks to the mouth of the Lake Washington Ship Canal are closed to food fish angling at all times.

(13) Waters of Catch Record Card Area 10 west of a line from Point Monroe to Indianola and east of a line from Point Bolin to Battle Point are closed to food fish angling from January 1 through March 31.

(14) Waters within 200 yards of the salmon net pens located near Sund Rock in Hood Canal are closed to the taking of food fish other than salmon at all times.

(15) Waters of the Titlow Beach Marine Preserve Area are closed to the taking of food fish at all times except that it is lawful to fish for salmon with artificial lures only from shore or a nonmotorized vessel.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-56-305 Sturgeon—Snake River. It is unlawful to fish for and possess sturgeon taken for personal use from those waters of the Snake River within 400 feet down stream below any dam, rack or obstruction, and ~~((it))~~ it is unlawful to retain sturgeon taken from any waters of the Snake River ~~((and))~~ or tributaries upstream from ~~((the~~

~~powerline crossing below the U.S. 12 Bridge at Clarkston, it is unlawful for anglers to retain any sturgeon))~~ Lower Granite Dam, and those hooked must be immediately released and returned to the water.

NEW SECTION

WAC 220-56-415 Goose barnacles. It is lawful to take goose barnacles for personal use the entire year.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-140 Chehalis River. (1) Bag Limit A - May 1 through June 30: Downstream from the Porter Bridge.

(2) Bag Limit A - July 1 through ~~((January 31))~~ September 30: Downstream from the ~~((Fuller Bridge to the Union Pacific Railroad Bridge in Aberdeen))~~ Mellon Street Bridge in Centralia.

(3) Bag Limit A - ~~((September 1 through September 30))~~ October 1 through January 31: Downstream from ~~((Porter Bridge to the Fuller Bridge))~~ the Highway 603 Bridge. ~~((Coho salmon greater than 20 inches in length must be released immediately.))~~

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-155 Clearwater River (Jefferson County). Bag Limit A - ~~((July))~~ September 1 through November 30: Downstream from the mouth of the Snahapish River.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

WAC 220-57-210 Duckabush River. ~~(((1)) Special Bag Limit—2 pink salmon—August 16 through October 31: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All salmon other than pink salmon must be released.~~

~~((2))~~ Special Bag Limit - 2 chum salmon ~~((or two pink salmon or 1 pink and 1 chum salmon))~~ - November 1 through December 15: Downstream from the Mason County Public Utility District #1 overhead electrical distribution line. All other salmon must be released immediately.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-215 Dungeness River. ~~((Bag Limit A except that up to six coho salmon may be retained in the daily bag limit. Chinook salmon and pink salmon must be released immediately—October 1 through December 31: Downstream from markers at Duncan Road, the former Taylor Bridge site, approximately one mile below the state salmon hatchery rack))~~ Closed to salmon angling.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-250 Grays River. Bag Limit A - September 1 through ~~((December))~~ October 31: Open from

mouth to 7000-line bridge. During the period October 1 through ~~(December)~~ October 31, chinook salmon greater than 28 inches in length must be released immediately in those waters upstream from the covered bridge. West Fork Grays River closed to salmon angling.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-57-255 Green River (Cowlitz County). Bag Limit A - except chinook salmon greater than 28 inches in length must be released - open September 1 through November 30: Downstream from fishing boundary markers located 1500 feet below the Toutle Hatchery temporary rack. Open waters are restricted to fly fishing gear only and it is unlawful to use any gear except fly fishing gear.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-57-310 Kalama River. (1) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - ~~((last Saturday in May))~~ June 1 through December 31: From Summers Creek upstream to the 6420 Road (approximately one mile above the gate at the end of the county road) is open to the taking of salmon with lawful fly fishing tackle only. Legal flies are limited to single-hook artificial flies measuring not more than 1/2 inches between shank and point.

(2) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - ~~((last Saturday in May through December 31))~~ open the entire year: Downstream from the mouth of Summers Creek to the markers at the Kalama Falls (Upper) Salmon Hatchery.

(3) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open the entire year: Downstream from a point 1,000 feet below the fishway at the upper salmon hatchery, with the following special gear restrictions: During the period September 1 through October 31, that portion of the Kalama River from markers at the Lower Kalama Hatchery pumphouse (intake) downstream to the natural gas pipeline crossing at Mahaffey's Campground will be open for fly fishing only and lawful salmon angling gear in those waters upstream from the fly fishing area to a point 1,000 feet below the fishway at the upper salmon hatchery and downstream from the fly fishing area to the Interstate 5 Bridge is limited to bait or lures with one single point hook only, measuring not more than 1/2 inch from point to shank.

October 1 through December 31: Chinook salmon over 28 inches caught in the area downstream from a point 1,000 feet below the fishway at the upper salmon hatchery to the natural gas pipeline must be released.

(4) During the time the department of fisheries temporary rack is installed just below the Modrow Bridge, that portion of the river from a point 200 feet above the temporary rack downstream to a set of markers 1,500 feet below the temporary rack is closed to salmon angling.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-57-319 Lewis River. (1) Mainstem - Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open entire year: Downstream from east fork to mouth.

(2) East fork:

(a) Bag Limit A - open entire year: Downstream from the LaCenter Bridge.

(b) Bag Limit A - ~~((April))~~ June 1 through December 31: Downstream from Lucia Falls to the LaCenter Bridge. All chinook salmon over 28 inches caught after September 30 must be released immediately.

(3) North fork:

(a) Bag Limit A - January 1 through September 30: Downstream from overhead power lines below Ariel Dam except as provided in subsection (3)(b).

(b) Bag Limit A except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon - open entire year: Downstream from the mouth of Colvin Creek (approximately 1/4 mile upstream of the salmon hatchery) to the mouth of the east fork, except that at all times it is unlawful to take, fish for or possess salmon taken for personal use from waters shoreward of the cable, buoy, and corkline located at the mouth of the Lewis River Salmon Hatchery Fishway.

(c) During the period September 1 through November 30, in those waters downstream from the mouth of Colvin Creek to the lower Cedar Creek concrete boat ramp, lawful salmon angling gear is limited to bait or lures with one single pointed hook only, which hook measures not more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-335 Naselle River. (1) Bag Limit A - ~~((July 1))~~ October 16 through January 31: Downstream from the Highway 4 Bridge to Highway 101 Bridge.

(2) Bag Limit A - October 16 through January 31: Downstream from the Big Hill Bridge to the Highway 4 Bridge.

(3) Waters within 400 feet both upstream and downstream from the entrance to the Naselle Salmon Hatchery Attraction Channel are closed to salmon angling at all times.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-400 Salmon River (Jefferson County). Bag Limit A - September ~~((+6))~~ 1 through November 30: Downstream from the Q 1000 Road Bridge including waters within Olympic National Park outside the boundaries of the Quinault Indian Reservation.

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

WAC 220-57-425 Skagit River. ~~((+1))~~ Bag Limit A - July 1 through July 31: Downstream from the mouth of the Cascade River to Gilligan Creek. Chinook salmon greater

~~than 24 inches in length, coho salmon and sockeye salmon must be released immediately.~~

~~(2)) Special Bag Limit of ((six)) 2 chum salmon per day ((not more than three of which may be adult salmon)) - ((August 1)) October 16 through December 31: Downstream from the mouth of ((the Cascade River to)) Gilligan Creek. ((Chinook salmon greater than 24 inches in length, coho salmon and sockeye salmon must be released immediately.)) All waters of the Skagit River between a line projected across the thread of the river 200 feet above the east bank of the Baker River and a line projected across the thread of the river 200 feet below the west bank of the Baker River are closed.~~

~~((3)) Bag Limit A - June 16 through July 31: Downstream from Gilligan Creek. Not more than one of the adult salmon may be a chinook salmon. Coho salmon and sockeye salmon must be released immediately.~~

~~(4) Special Bag Limit of six salmon not more than one of which may be an adult chinook and not more than three of which may be adult salmon of any species (the three adult fish includes the chinook, if taken) - August 1 to December 31: Downstream from the mouth of Gilligan Creek. Coho salmon and sockeye salmon must be released immediately.))~~

AMENDATORY SECTION (Amending Order 93-36, filed 6/29/93, effective 7/30/93)

WAC 220-57-430 Skokomish River. Bag Limit A - August 1 through August 31 except all coho salmon must be released and November 1 through December 15, except all coho salmon must be released: Downstream from the Highway 101 Bridge. Terminal gear on the Skokomish River is limited to one bait or lure with one single-pointed hook only, measuring no more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-435 Skykomish River. Bag Limit A - ((July)) September 1 through December 31 except all chinook salmon must be released: Downstream from the confluence of north and south forks. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-450 Snohomish River. Bag Limit A - ((July)) September 1 through December 31 except all chinook salmon must be released: Downstream from confluence of Skykomish and Snoqualmie rivers. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-455 Snoqualmie River. Bag Limit A - ((July)) September 1 through December 31 except all chinook salmon must be released. During even-numbered years it is unlawful to retain pink salmon.

AMENDATORY SECTION (Amending Order 87-16, filed 4/21/87)

WAC 220-57-473 Tilton River. (1) Mainstem - Bag Limit A - ((last Saturday in May)) June 1 through December 31: Downstream from west fork Tilton River.

(2) North fork - Bag Limit A - ((last Saturday in May)) June 1 through October 31: Downstream from markers 400 feet above the 73 Road Bridge to the Tilton River (approximately lower two miles).

AMENDATORY SECTION (Amending Order 82-19, filed 3/18/82)

WAC 220-57-480 Toutle River. ((Closed to salmon angling the entire year.)) Bag Limit A - except chinook salmon greater than 28 inches in length must be released - September 1 through November 30.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-490 Union River. ((Special Bag Limit: Two adult chum salmon - November 1 through January 31: Downstream from the North Shore Road Bridge. Coho salmon must be released immediately.)) Closed the entire year.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-57-495 Washougal River. Bag Limit A - ((January 1 through December 31)) June 1 through March 15 except that during the period October 16 through December 31 the daily bag limit may contain up to 4 adult coho salmon: Downstream from bridge at Salmon Falls to mouth. During the period October 1 through December 31, in waters upstream from the mouth of Little Washougal River, chinook salmon over 28 inches in length must be released. From September 1 to October 31, lawful salmon angling gear shall be restricted to bait or lures with one single point hook only, measuring no more than 1/2 inch from point to shank.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-130 Bogachiel River. Bag Limit A - July 1 through ((November 30)) October 9: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-135 Calawah River. Bag Limit A - July 1 through ((November 30)) October 9: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-200 Dickey River. Bag Limit A - July 1 through ((November 30)) October 9: Downstream of the mouth of east fork of the Dickey River to the National Park boundary.

AMENDATORY SECTION (Amending WSR 90-06-026, filed 2/28/90, effective 3/31/90)

WAC 220-57-270 Hoh River. (1) Bag Limit C - May 16 through ~~((November 30))~~ August 31: Downstream from the mouth of the south fork Hoh to the Morgan's Crossing boat launch ~~((site)), including Olympic National Park.~~

(2) Bag Limit A - May 16 through ~~((November 30))~~ August 31: Downstream from the Morgan's Crossing boat launch ~~((site)).~~

(3) Bag Limit A - September 1 through November 30: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-280 Hoquiam River. Main Hoquiam River, west fork of Hoquiam River downstream from the bridge on the Dekay Road and east fork of Hoquiam River downstream from the abandoned flat car bridge below the mouth of Berryman Creek - Bag Limit A - ~~((July 1))~~ December 1 through January 31.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-285 Humptulips River. (1) Bag Limit C - ~~((July))~~ December 1 through January 31: Downstream from confluence of east and west forks to Highway 101 Bridge.

(2) Bag Limit A - ~~((July))~~ December 1 through January 31: Downstream from the Highway 101 Bridge.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-300 Johns River. Bag Limit A - ~~((July))~~ December 1 through January 31: Downstream from Old M&B Logging Camp Bridge at upper boundary of Johns River Habitat Management Area to Highway 105 Bridge.

AMENDATORY SECTION (Amending Order 93-20), filed 3/31/93, effective 5/1/93)

WAC 220-57-350 Nooksack River. (1) Bag Limit A ~~((except that up to six coho salmon may be retained in the daily bag limit))~~ - ~~((August))~~ September 1 through December 31: Downstream from the confluence of north and south forks to Lummi Indian Reservation boundary.

(2) North Fork - Bag Limit A - October 1 through December 31: Downstream from Maple Creek to mouth of north fork.

(3) South Fork - Bag Limit A - October 1 through December 31: Downstream from the Saxon Bridge to mouth of south fork.

(4) Closed to the taking of pink salmon.

AMENDATORY SECTION (Amending Order 92-19, filed 5/12/92, effective 6/12/92)

WAC 220-57-385 Quillayute River. Bag Limit A - March 1 through ~~((November 30))~~ October 9: Downstream from the confluence of the Soleduck and Bogachiel rivers including Olympic National Park waters.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-415 Satsop River. Bag Limit A - ~~((October))~~ December 1 through January 31: Downstream from the bridge at Schafer State Park on east fork. Chinook salmon must be released immediately.

AMENDATORY SECTION (Amending Order 93-20, filed 3/31/93, effective 5/1/93)

WAC 220-57-465 Stillaguamish River. Special Daily Bag Limit of two chum salmon - ~~((October 16))~~ November 1 through December 31: Downstream from confluence of north and south forks except waters of Cook Slough are closed at all times from the water flow control structure to a point 400 feet downstream. It is unlawful to take or possess chinook, coho or pink salmon.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-520 Wishkah River. Bag Limit A - ~~((July))~~ December 1 through January 31: Downstream from the mouth of the west fork.

AMENDATORY SECTION (Amending Order 89-12, filed 3/16/89)

WAC 220-57-525 Wynoochee River. Bag Limit A - ~~((July))~~ December 1 through January 31: Downstream from the mouth of Schafer Creek.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57A-012 Baker Lake (Whatcom County). ~~((Bag Limit 1))~~ Closed to anadromous salmon angling the entire year. For purposes of this section, anadromous salmon are defined as salmon smaller than 6 inches in length or greater than 18 inches in length.

AMENDATORY SECTION (Amending Order 86-08, filed 4/9/86)

WAC 220-57A-152 Shannon Reservoir (Skagit County). ~~((Bag Limit 1))~~ Closed to anadromous salmon angling the entire year. For purposes of this section, anadromous salmon are defined as salmon smaller than 6 inches in length or greater than 18 inches in length.

WSR 94-14-082

PERMANENT RULES

DEPARTMENT OF HEALTH

(Podiatric Medical Board)

[Filed July 5, 1994, 3:47 p.m.]

Date of Adoption: May 13, 1994.

Purpose: Permits podiatric physicians to obtain assistance for treating substance abuse; permits the board to require podiatric physicians that have been disciplined for substance abuse to participate in a program.

Statutory Authority for Adoption: RCW 18.22.015, chapter 18.22 RCW.

Pursuant to notice filed as WSR 94-08-079 on April 5, 1994.

Changes Other than Editing from Proposed to Adopted Version: Terminology was modified to reflect current substance abuse language. Terms were made consistent throughout the WACs.

Effective Date of Rule: Thirty-one days after filing.

June 24, 1994

Cynthia Fenberg, D.P.M.
Chair

NEW SECTION

WAC 246-922-400 Intent. It is the intent of the legislature that the podiatric medical board seek ways to identify and support the rehabilitation of podiatric physicians and surgeons where practice or competency may be impaired due to the abuse of or dependency upon drugs or alcohol. The legislature intends that these practitioners be treated so that they can return to or continue to practice podiatric medicine and surgery in a way which safeguards the public. The legislature specifically intends that the podiatric medical board establish an alternate program to the traditional administrative proceedings against podiatric physicians and surgeons.

In lieu of disciplinary action under RCW 18.130.160, if the podiatric medical board determines that the unprofessional conduct may be the result of substance abuse or dependency, the board may refer the licensee to a voluntary substance abuse monitoring program approved by the board.

NEW SECTION

WAC 246-922-405 Definitions used relative to substance abuse monitoring. (1) "Approved substance abuse/dependency monitoring program" or "approved monitoring program" is a program the board has determined meets the requirements of the law and rules established by the board according to the Washington Administrative Code which enters into a contract with podiatric practitioners who have substance abuse/dependency problems. The approved substance abuse monitoring program oversees compliance of the podiatric practitioner's recovery activities as required by the board. Substance abuse monitoring programs may provide evaluation and/or treatment to participating podiatric practitioners.

(2) "Impaired podiatric practitioner" means a podiatric physician and surgeon who is unable to practice podiatric medicine and surgery with judgment, skill, competence, or safety due to chemical dependence/substance abuse.

(3) "Contract" is a comprehensive, structured agreement between the recovering podiatric practitioner and the approved monitoring program wherein the podiatric practitioner consents to comply with the monitoring program and the required components for the podiatric practitioner's recovery activity.

(4) "Approved treatment facility" is a facility approved by the bureau of alcohol and substance abuse, department of social and health services.

(5) "Chemical dependence/substance abuse" means an illness/condition which involves the inappropriate use of alcohol and/or other drugs to a degree that such use interferes in the functional life of the licensee, as manifested by

personal, family, physical, emotional, occupational (professional services), legal, or spiritual problems.

(6) "Drug" means a chemical substance alone or in combination with other drugs, including alcohol.

(7) "Aftercare/continuing care" means that period of time after intensive treatment that provides the podiatric practitioner and the podiatric practitioner's family with group, or individualized counseling sessions, discussions with other families, ongoing contact and participation in self-help groups, and ongoing continued support of treatment program staff.

(8) "Podiatric practitioner support group" is a group of podiatric practitioners and/or other health care professionals meeting regularly to support the recovery of its members. The group provides a confidential setting with a trained and experienced facilitator in which participants may safely discuss drug diversion, licensure issues, return to work, and other professional issues related to recovery.

(9) "Twelve-step groups" are groups such as Alcoholics Anonymous, Narcotics Anonymous, and related organizations based on a philosophy of anonymity, belief in a power greater than oneself, peer group association, and self-help.

(10) "Random drug screens" are laboratory tests to detect the presence of drugs of abuse or dependency in body fluids which are performed at irregular intervals not known in advance by the person to be tested. The collection of the body fluids must be observed by a treatment or health care professional or other board or monitoring program-approved observer.

(11) "Recovering" means that a chemically dependent podiatric practitioner is in compliance with a treatment plan of rehabilitation in accordance with criteria established by an approved treatment facility and an approved substance abuse monitoring program.

(12) "Rehabilitation" means the process of restoring a chemically dependent podiatric practitioner to a level of professional performance consistent with public health and safety.

(13) "Reinstatement" means the process whereby a recovering podiatric practitioner is permitted to resume the practice of podiatric medicine and surgery.

NEW SECTION

WAC 246-922-410 Approval of substance abuse monitoring programs. The board will approve the monitoring program(s) which will participate in the recovery of podiatric practitioners. The board will enter into a contract with the approved substance abuse monitoring program(s).

(1) An approved monitoring program:

(a) May provide evaluations and/or treatment to the participating podiatric practitioners;

(b) Shall enter into a contract with the podiatric practitioner and the board to oversee the podiatric practitioner's compliance with the requirement of the program;

(c) Shall maintain records on participants;

(d) Shall be responsible for providing feedback to the podiatric practitioner as to whether treatment progress is acceptable;

(e) Shall report to the board any podiatric practitioner who fails to comply with the requirements of the monitoring program;

(f) Shall provide the board with a statistical report and financial statement on the program, including progress of participants, at least annually, or more frequently as requested by the board;

(g) Shall provide for the board a complete biennial audited financial statement;

(h) Shall enter into a written contract with the board and submit monthly billing statements supported by documentation;

(2) Approved monitoring program staff must have the qualifications and knowledge of both substance abuse/dependency and the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW to be able to evaluate:

(a) Drug screening laboratories;

(b) Laboratory results;

(c) Providers of substance abuse treatment, both individual and facilities;

(d) Podiatric practitioner support groups;

(e) Podiatric practitioners' work environment; and

(f) The ability of the podiatric practitioners to practice with reasonable skill and safety.

(3) The program staff of the approved monitoring program may evaluate and recommend to the board, on an individual basis, whether a podiatric practitioner will be prohibited from engaging in the practice of podiatric medicine and surgery for a period of time and restrictions, if any, on the podiatric practitioner's access to controlled substances in the workplace.

(4) The board shall provide the approved monitoring program board orders requiring treatment, monitoring, and/or limitations on the practice of podiatric medicine and surgery for those participating in the program.

NEW SECTION

WAC 246-922-415 Participation in approved substance abuse monitoring program. (1) The podiatric practitioner who has been investigated by the board may accept board referral into the approved substance abuse monitoring program. Referral may occur in lieu of disciplinary action under RCW 18.130.160 or as a result of a board order as final disposition of a disciplinary action. The podiatric practitioner:

(a) Shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation is to be performed by a health care professional(s) with expertise in chemical dependency;

(b) Shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to: The podiatric practitioner:

(i) Shall undergo intensive substance abuse treatment by an approved treatment facility;

(ii) Shall agree to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within fourteen days of the date care was provided;

(iii) Must complete the prescribed aftercare/continuing care program of the intensive treatment facility. This may include individual and/or group psychotherapy;

(iv) Must cause the treatment counselor(s) and authorized prescriber(s) to provide reports to the appropriate monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc;

(v) Shall submit to random drug screening, with observed specimen collection, as specified by the approved monitoring program;

(vi) Shall attend podiatric practitioner support groups facilitated by health care professionals and/or twelve-step group meetings as specified by the contract;

(vii) Shall comply with specified employment conditions and restrictions as defined by the contract;

(viii) Shall sign a waiver allowing the approved monitoring program to release information to the board if the podiatric practitioner does not comply with the requirements of the contract;

(c) Is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse/dependency treatment, random urine screens and other personal expenses incurred in compliance with the contract;

(d) May be subject to disciplinary action under RCW 18.130.160 and 18.130.180 if the podiatric practitioner does not consent to be referred to the approved monitoring program, does not comply with specified practice restrictions, or does not successfully complete the program.

(2) A podiatric practitioner who is not being investigated by the board or subject to current disciplinary action, not currently being monitored by the board for substance abuse or dependency, may voluntarily participate in the approved substance abuse monitoring program without being referred by the board. Such voluntary participants shall not be subject to disciplinary action under RCW 18.130.160 and 18.130.180 for their substance abuse/dependency, and shall not have their participation made known to the board if they continue to satisfactorily meet the requirements of the approved monitoring program. The podiatric practitioner:

(a) Shall undergo a complete physical and psychosocial evaluation before entering the approved monitoring program. This evaluation will be performed by a health care professional with expertise in chemical dependency;

(b) Shall enter into a contract with the approved substance abuse monitoring program to comply with the requirements of the program which shall include, but not be limited to: The podiatric practitioner:

(i) Shall undergo intensive substance abuse treatment by an approved treatment facility;

(ii) Shall agree to abstain from the use of all mind-altering substances, including alcohol, except for medications prescribed by an authorized prescriber, as defined in RCW 69.41.030 and 69.50.101. Said prescriber shall notify the monitoring program of all drugs prescribed within fourteen days of the date care was provided;

(iii) Must complete the prescribed aftercare/continuing care program of the intensive treatment facility. This may include individual and/or group therapy;

(iv) Must cause the treatment counselor(s) and authorized prescriber(s) to provide reports to the approved monitoring program at specified intervals. Reports shall include treatment prognosis, goals, drugs prescribed, etc;

(v) Shall submit to random drug screening, with observed specimen collection, as specified by the approved monitoring program;

(vi) Shall attend podiatric practitioner support groups facilitated by a health care professional and/or twelve-step group meetings as specified by the contract;

(vii) Shall comply with specified employment conditions and restrictions as defined by the contract;

(viii) Shall sign a waiver allowing the approved monitoring program to release information to the board if the podiatric practitioner does not comply with the requirements of the contract. The podiatric practitioner may be subject to disciplinary action under RCW 18.130.160 and 18.130.180 for noncompliance with the contract or if he/she does not successfully complete the program;

(c) Is responsible for paying the costs of the physical and psychosocial evaluation, substance abuse/dependency treatment, random urine screens, and other personal expenses incurred in compliance with the contract.

WSR 94-14-100
PERMANENT RULES
INSURANCE COMMISSIONER'S OFFICE

[Order R 94-10—Filed July 6, 1994, 11:03 a.m.]

Date of Adoption: June 29, 1994.

Purpose: Amending chapter 284-54 WAC to add a definition of "adult day health care"; amend minimum standards; add a prohibition against preexisting conditions and probationary periods in replacement contracts and certificates; add minimum standards for community based care services; add a requirement for extension of benefits; and add a requirement to offer certain inflation protection benefits to applicants for long-term care contracts and certificates.

Citation of Existing Rules Affected by this Order: Amending WAC 284-54-020 and 284-54-150.

Statutory Authority for Adoption: RCW 48.02.060, 48.84.030, 48.01.030.

Pursuant to notice filed as WSR 94-09-050 on April 20, 1994; and WSR 94-13-217 on June 22, 1994.

Changes Other than Editing from Proposed to Adopted Version: New section WAC 284-54-210 amended to clarify and correct references to community based care, as defined at WAC 284-54-020(1). Changes are not substantive in nature.

Effective Date of Rule: Thirty-one days after filing,
June 29, 1994
Deborah Senn
Insurance Commissioner

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-020 Definitions of terms used in this chapter and chapter 48.84 RCW. For purposes of the administration of chapter 48.84 RCW and this chapter:

(1) "Community based care" means services provided outside an institutional setting and includes, but is not limited to, the following: (a) Home delivered nursing services or therapy; (b) custodial or personal care; (c) day

care; (d) home and chore aid services; (e) nutritional services, both in-home and in a communal dining setting; and (f) respite care, whether provided at any level from skilled care to custodial or personal care.

(2) "Contract" means a long-term care insurance policy or contract, regardless of the kind of insurer issuing it, unless the context clearly indicates otherwise.

(3) "Direct response insurer" means an insurer who, as to a particular contract, is transacting insurance directly with a potential insured without solicitation by, or the intervention of, a licensed insurance agent.

(4) A "gatekeeper provision" is any provision in a contract establishing a threshold requirement which must be satisfied before a covered person is eligible to receive benefits promised by the contract. Examples of such provisions include, but are not limited to the following: A three-day prior hospitalization requirement, recommendations of the attending physician, and recommendations of a case manager.

(5) "Institutional care" means care provided in a hospital, skilled or intermediate nursing home, congregate care facility, adult family home, or other facility certified or licensed by the state primarily affording diagnostic, preventive, therapeutic, rehabilitative, maintenance or personal care services. Such a facility provides twenty-four-hour nursing services on its premises or in facilities available to the institution on a formal prearranged basis.

(6) "Insured" shall mean any beneficiary or owner of a long-term care contract regardless of the type of insurer.

(7) "Insurer" includes insurance companies, fraternal benefit societies, health care service contractors and health maintenance organizations unless the context clearly indicates otherwise.

(8) "Premium" shall mean all sums charged, received or deposited as consideration for a contract and includes any assessment, membership, contract, survey, inspection, service, or similar fees or charges as paid.

(9) "Terminally ill care" means care for an illness, disease, or injury which has reached a point where recovery can no longer be expected and the attending physician has certified that the patient is facing imminent death; or has a life expectancy of six months or less.

(10) "Adult day health care" means a program of community based social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the individual's home.

AMENDATORY SECTION (Amending Order R 87-7, filed 7/9/87)

WAC 284-54-150 Minimum standards—General. No contract may be advertised, solicited, or issued for delivery in this state as a long-term care contract which does not meet the following standards. These are minimum standards and do not preclude the inclusion of other provisions or benefits which are not inconsistent with these standards.

(1) No contract shall limit benefits to an unreasonable period of time or an unreasonable dollar amount. For example, a provision that a particular condition will be

covered only for one year without regard to the actual amount of the benefits paid or provided, is not acceptable. Policies or contracts may, however, limit in-patient institutional care benefits to a reasonable period of time. Benefits may also be limited to a reasonable maximum dollar amount, and, as for example in the case of home health care visits, to a reasonable number of visits over a stated period of time.

(2) If a fixed-dollar indemnity, fee for services rendered or similar long-term care contract contains a maximum benefit period stated in terms of days for which benefits are paid or services are received by the insured, the days which are counted toward the benefit period must be days for which the insured has actually received one or more contract benefits or services. If benefits or services are not received on a given day, that day may not be counted. Waiver of premium shall not be considered a contract benefit for purposes of accrual of days under this section, and long-term care total disability shall not operate to reduce the benefit.

(3) If a contract of a managed health care plan contains a maximum benefit period it must be stated in terms of the days the insured is in the managed care delivery system. The days which are counted toward the benefit period may include days that the insured is under a care plan established by the case manager, or days in which the insured actually receives one or more benefits or services.

(4) ~~((Any nursing home or other institutional benefit))~~
A long-term care contract must cover skilled, intermediate, and custodial or personal care, whether benefits are for institutional or community based care.

(5) No contract may restrict or deny benefits because the insured has failed to meet Medicare beneficiary eligibility criteria.

(6) ~~((If an))~~ No insurer may offer((s)) a contract form which requires ~~((entrance to an institution at the skilled care level, it must also offer an otherwise identical contract form offering benefits without such a requirement))~~ prior skilled or intermediate care as a condition of coverage for institutional or community based care.

(7) ~~((If an))~~ No insurer may offer((s)) a contract form which requires prior hospitalization~~((, it must also offer an otherwise identical contract form without such a requirement))~~ as a condition of covering institutional or community based care.

(8) No long-term care contract may restrict benefit payments to a requirement that the patient is making a "steady improvement" or limit benefits to "recuperation" of health.

(9) All long-term care contracts shall be issued as individual or family contracts only, unless coverage is provided pursuant to a group contract, issued to a bona fide group, which contract provides continuity of coverage equivalent to that which would be provided under a guaranteed renewable individual contract, and otherwise satisfies the commissioner that it is not contrary to the best interests of the public.

NEW SECTION

WAC 284-54-200 Prohibition against preexisting conditions and probationary periods in replacement policies or certificates. If a long-term care insurance contract or certificate replaces another long-term care

insurance contract or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care insurance contract for similar benefits to the extent that similar exclusions have been satisfied under the original contract.

NEW SECTION

WAC 284-54-210 Minimum standards for community based care benefits in long-term care insurance policies. (1) No long-term care insurance contract or certificate which provides benefits for community based care services may limit or exclude benefits:

(a) By requiring care in a skilled nursing facility before covering community based care services;

(b) By requiring that the insured first or simultaneously receive nursing or therapeutic services in a home, community or institutional setting before community based care services are covered;

(c) By limiting eligible services to services provided by registered nurses or licensed practical nurses;

(d) By requiring that community based care services may be delivered only by licensed nurses or therapists when the type of services to be provided comes within the authorized scope of license of other regulated health care providers;

(e) By excluding coverage for personal care services provided by a home health aide;

(f) By requiring that the delivery of community based care services be at a level of certification or licensure greater than that required for the eligible service;

(g) By requiring that the insured have an acute condition before community based care services are covered;

(h) By limiting benefits to services provided by Medicare-certified agencies or providers; or

(i) By excluding coverage for adult day care services.

(2) A long-term care insurance contract or certificate, if it provides for community based care services, shall provide coverage for total community based care services in a dollar amount equivalent to at least one-half of one year's coverage available for institutional benefits under the contract or certificate at the time covered community based care services are received. This requirement does not apply to contracts or certificates issued to residents of continuing care retirement communities.

(3) Community based care coverage may be applied to the nonhome health care benefits provided in the contract or certificate when determining maximum coverage under the terms of the contract or certificate.

NEW SECTION

WAC 284-54-260 Extension of benefits. Termination of long-term care insurance shall be without prejudice to any benefits payable for institutionalization if such institutionalization began while the long-term care insurance was in force and continues without interruption after termination. Such extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any applicable waiting period, and all other applicable provisions of the contract or certificate.

NEW SECTION

WAC 284-54-270 Requirement to offer inflation protection. (1) No insurer may offer a long-term care insurance contract unless, in addition to any other inflation protection option, the insurer offers to the applicant the option to purchase a contract that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the contract. Insurers must offer to each applicant, at the time of purchase, the option to purchase a contract with an inflation protection feature no less favorable than one of the following:

(a) Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent;

(b) Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status so long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or

(c) Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit.

(2) Where the contract is issued to a group, the required offer in subsection (1) of this section shall be made to the group policyholder; except, if the policy is issued to an association group (defined in RCW 48.24.045) other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder.

(3) The offer in subsection (1) of this section shall not be required of life insurance policies or riders containing accelerated long-term care benefits.

(4) Insurers shall include the following information in or with the outline of coverage:

(i) A graphic comparison of the benefit levels of a contract that increases benefits over the contract period with a contract that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty-year period.

(ii) Any expected premium increases or additional premiums to pay for automatic or optional benefit increases.

(b) An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure.

(c) It is intended that meaningful inflation protection be provided. Meaningful benefit minimums or durations may, for example, include providing increases to attained age, or for a period such as at least twenty years, or for some multiple of the policy's maximum benefit, or throughout the period of coverage.

(5) Inflation protection benefit increases under a contract which contains such benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the contract.

(6) An offer of inflation protection which provides for automatic benefit increases shall include an offer of a

premium which the insurer expects to remain constant. Such offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant.

(7)(a) Inflation protection as provided in subsection (1)(a) of this section shall be included in a long-term care insurance contract unless an insurer obtains a written rejection of inflation protection signed by the applicant.

(b) The rejection shall be considered a part of the application and shall state:

"I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this contract with and without inflation protection. Specifically, I have reviewed Plans, and I reject inflation protection."

WSR 94-14-101

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 145—Filed July 6, 1994, 11:07 a.m.]

Date of Adoption: July 6, 1994.

Purpose: To provide rules of practice and procedure for departmental adjudicative proceedings and rule making under chapter 34.05 RCW and repeal those rules of practice and procedure invalidated by chapter 34.05 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 468-10-010 through 468-10-320.

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: RCW 47.01.101(5).

Pursuant to notice filed as WSR 94-12-070 on May 31, 1994.

Effective Date of Rule: Thirty-one days after filing.
July 6, 1994

S. A. Moon
Deputy Secretary

REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 468-10-010 Appearance and practice before commission or secretary—Who may appear.
- WAC 468-10-020 Appearance and practice before commission or secretary—Solicitation of business unethical.
- WAC 468-10-030 Appearance and practice before commission or secretary—Standards of ethical conduct.
- WAC 468-10-040 Appearance and practice before commission or secretary—Appearance and/or representation by former employee, attorney, or officer.
- WAC 468-10-050 Computation of time.
- WAC 468-10-060 Order in presenting evidence—Franchise applications.
- WAC 468-10-070 Official notice—Matters of law.

PERMANENT

- WAC 468-10-080 Official notice—Material facts.
- WAC 468-10-090 Stipulations and admissions of record.
- WAC 468-10-100 Form and content of decisions in contested cases.
- WAC 468-10-110 Definition of issues before hearing.
- WAC 468-10-120 Prehearing conference rule—Authorized.
- WAC 468-10-130 Prehearing conference rule—Record of conference action.
- WAC 468-10-140 Submission of documentary evidence in advance.
- WAC 468-10-150 Excerpts from documentary evidence.
- WAC 468-10-160 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses.
- WAC 468-10-170 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements.
- WAC 468-10-180 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data.
- WAC 468-10-190 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 468-10-160 or 468-10-170.
- WAC 468-10-200 Continuances.
- WAC 468-10-210 Rules of evidence—Admissibility criteria.
- WAC 468-10-220 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections.
- WAC 468-10-230 Briefs.
- WAC 468-10-232 Answer.
- WAC 468-10-234 Agency action following preparation of proposed decision.
- WAC 468-10-240 Petitions for rule making, amendment, or repeal—Who may petition.
- WAC 468-10-250 Petitions for rule making, amendment, or repeal—Requisites.
- WAC 468-10-260 Petitions for rule making, amendment, or repeal—Agency must consider.
- WAC 468-10-270 Petitions for rule making, amendment, or repeal—Notice of disposition.
- WAC 468-10-280 Petitions for rule making, amendment, or repeal—Form.
- WAC 468-10-290 Declaratory rulings—Who may petition—Action of commission or secretary.
- WAC 468-10-300 Forms.
- WAC 468-10-310 Stay of final decision.
- WAC 468-10-320 Consideration of economic costs and impacts in rule making.

NEW SECTION

WAC 468-10-400 Application of this chapter. This chapter applies to all adjudicative proceedings under the jurisdiction of the department of transportation or the secretary of the department of transportation: *Provided*, That the rules shall not apply to appeals under RCW 47.28.070 and joint hearings under RCW 47.68.290.

NEW SECTION

WAC 468-10-410 Adoption of model rules of procedures. Except as they may be inconsistent with the rules in this chapter, the department of transportation adopts the model rules of procedures as set forth in chapter 10-08 WAC. Where the rules of this chapter conflict with those of chapter 10-08 WAC, the rules of this chapter shall govern. Where the rules of this chapter conflict with chapter 468-100 WAC, the rules of chapter 468-100 WAC shall govern. Where the rules of chapter 468-100 WAC conflict with chapter 10-08 WAC, the rules of chapter 468-100 WAC shall govern.

NEW SECTION

WAC 468-10-420 Definitions. The definitions set forth in this section shall apply throughout this chapter unless the context otherwise requires:

"Department" means the Washington state department of transportation.

"Secretary" means the secretary of the Washington state department of transportation.

Where the rules of this chapter use words defined in RCW 34.05.010, those definitions shall govern.

NEW SECTION

WAC 468-10-430 Application for adjudicative proceeding. (1) An application for an adjudicative proceeding must be filed in writing within thirty days of the action that is the subject of the appeal.

(2) An application for an adjudicative proceeding shall specify the issue or issues to be adjudicated in the proceeding and must be signed by the applicant or the applicant's representative. The signature of an applicant or the applicant's representative constitutes a certificate by the applicant or applicant's representative that the applicant or applicant's representative has read the application; that to the best of the applicant's or applicant's representative's knowledge, information, and belief, formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication. If an application is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the applicant or applicant's representative. If an application is signed in violation of this rule,

the presiding officer, upon motion or upon its own initiative, may impose upon the person who signed it, a representative party, or both, an appropriate sanction, which may include dismissal of the case.

(3) An application for an adjudicative proceeding shall be served by certified mail, registered mail, or personal service on the Office of the Secretary of the Washington State Department of Transportation, 3D25 Transportation Building, Olympia, WA 98504-7316. Service by electronic telefacsimile transmission is not allowed.

NEW SECTION

WAC 468-10-440 Standards of ethical conduct. All persons appearing in an adjudicative proceeding shall conform to the standards of ethical conduct required of attorneys before the courts of Washington as required by the rules of professional conduct. If any such person does not conform to such standards, the presiding officer may decline to permit such person to appear in a representative capacity in the adjudicative proceeding.

NEW SECTION

WAC 468-10-450 Appearance and practice—Appearance and/or representation by former employee, attorney or officer. (1) No person who has served as an officer, attorney, or employee of the department shall appear in an adjudicative proceeding or receive compensation for any services rendered on behalf of any person, firm, corporation, or association in relation to any adjudicative proceeding or application with respect to which such person was directly concerned and in which one personally participated during the period of her or his service or employment.

(2) No person who has served as an officer, attorney, or employee of the department shall appear, except with the permission of the secretary, as an expert witness on behalf of any party, other than the department, in an adjudicative proceeding in which she or he previously took an active part in the matter as a representative of the department.

NEW SECTION

WAC 468-10-460 Answer. (1) When the department serves a party with a notice of hearing pursuant to RCW 34.05.413(5), the party shall file an answer stating in short plain terms his/her response or defense to the matters asserted in the notice, and shall admit or deny averments in the notice (other than statements of time, place, and nature of the proceeding). If the party is without knowledge or information to form a belief as to the truth of an averment, the party shall so state and this will have the effect of a denial. When a party intends in good faith to deny any part or qualification of an averment, she/he shall specify so much of it as is true and material and shall deny the remainder. A party may make the denials as specific denials of designated averments or paragraphs, or may generally deny all averments except those expressly admitted.

(2) In his/her answer to the notice, a party shall set forth affirmatively any matter constituting an avoidance or affirmative defense. Defenses not pleaded in the answer are waived.

(3) An answer shall be filed within twenty days after the notice of hearing is served unless the date of hearing is less than forty days from the date the notice of hearing is served in which event an answer must be filed within half the intervening time.

(4) Any defense that the hearing cannot be held because the party served with the notice has been prejudiced because of some irregularity in procedure must be pleaded in the answer by specific averment which shall include such supporting particulars as are within the answering party's knowledge or could have reasonably been learned by the answering party.

(5) No reply to an answer shall be filed. Affirmative averments in the answer shall be deemed denied or avoided.

NEW SECTION

WAC 468-10-470 Discovery, protective orders. Discovery will be available in adjudicative proceedings only as follows:

(1) **Methods:** Any party to an adjudicative proceeding may only obtain discovery from another party by written interrogatories, subpoenas duces tecum, and written requests for production of documents. The procedures regarding these methods of discovery are found at CR 33 and CR 34 as now or hereafter amended unless inconsistent with the rules herein.

(2) **Scope of discovery:** Parties may obtain discovery to the extent authorized by CR 26(b).

(3) **Protective order:** Any party may file a motion for protective order regarding discovery. Rulings on such motions shall be made by the presiding officer.

(4) **Order compelling discovery:** The presiding officer is authorized to make any order that a court could make under CR 37(a), including an order awarding expenses of the motion to compel discovery.

(5) **Completion of discovery:** All discovery allowed under this section must be completed at a reasonable time prior to hearing as determined by the presiding officer in a discovery schedule. Nothing herein stated shall modify a party's responsibility to promptly supplement responses to discovery rules or otherwise comply with discovery.

(6) **Use at hearing:** Information and documents obtained pursuant to discovery will not become part of the record until received into evidence by the presiding officer upon the motion of any party.

NEW SECTION

WAC 468-10-480 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such material will be offered, to the presiding officer and to the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding.

NEW SECTION**WAC 468-10-490 Motions before presiding officers.**

(1) **Scope of section:** This section governs all motions made to the presiding officer except those made orally on the record during an adjudicative proceeding.

(2) **Form:** A motion must be in writing. It must state the order of relief requested and the grounds for the motion. It may be accompanied by affidavits. It must be supported by legal authorities, set out in the motion or in a supporting brief.

(3) **Response:** Any party may serve and file a response within five days after the motion has been served on that party.

(4) **Filing:** The original and one copy of every motion and response, with supporting papers, must be filed with the presiding officer, along with proof of service.

(5) **Ruling:** When the presiding officer has received a response from all parties, or five days have elapsed since the last party was served, the presiding officer shall rule on the motion without oral argument, unless the presiding officer, in his or her discretion, orders that argument be heard.

NEW SECTION**WAC 468-10-500 Prehearing conference.** (1)

Conference: The presiding officer, as a matter of discretion, with or without a motion from a party, may direct the applicant or applicant's representative to appear before the presiding officer for a conference to consider:

(a) The definition and simplification of issues;

(b) The necessity or desirability of amendments to the pleadings;

(c) The possibility of obtaining admissions of fact and of documents which will be premarked for admission into evidence in order to avoid unnecessary proof;

(d) The limitations of the number of expert witnesses;

(e) Briefing schedules;

(f) Other matters that may aid in the disposition of the proceeding.

(2) **Order:** The presiding officer shall make a written order that recites the action taken at the conference, the amendments allowed to the pleadings, and the agreements made by the parties as to any of the matters considered, and which limits the issues for hearing to those not disposed of by admissions of counsel/party. The order when served and filed controls the subsequent course of the case, unless it is modified at the hearing to prevent manifest injustice.

NEW SECTION**WAC 468-10-510 Evidence.** (1) **General rules on**

admissibility: Presiding officers shall admit and give probative value to evidence that is admissible in the superior courts of the state of Washington in a trial. In addition, a presiding officer may admit and give probative effect to other evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. Presiding officers shall give effect to the rules of privileges recognized in the courts of this state. Presiding officers may exclude irrelevant, immaterial, and duly repetitious evidence.

(2) **Stipulations encouraged:** Counsel/parties are requested to mark proposed exhibits in advance of hearing

and to stipulate to the admission of all exhibits that are not objectionable.

(3) **Copies of documents and exhibits:** Unless excused from doing so by the presiding officer, a party offering a document or other exhibit in evidence must furnish copies to all other parties.

(4) **Official notice:** The presiding officer may take notice of judicially cognizable facts, and in addition may take notice of general, technical, or scientific facts within his or her specialized knowledge. Any party may, by motion, ask the presiding officer to take official notice of facts or material. When the presiding officer takes official notice of any facts or material, the presiding officer must notify the parties of what is noticed and afford them reasonable opportunity to contest the noticed facts or material. This may be done at any time before the presiding officer's order becomes final.

NEW SECTION**WAC 468-10-520 Petitions for review of initial**

orders—Final orders. (1) Except in brief adjudicative proceedings, initial orders in all adjudicative proceedings before the department will become final without further action by the department unless, within twenty days of the date of service of the initial order, a petition for review is filed with the person named and the address stated in the initial order for such petition of review.

(2) The provisions of WAC 10-08-211 apply to petitions for review of initial orders.

(3) WAC 468-10-530 governs review of orders in brief adjudicative proceedings.

NEW SECTION**WAC 468-10-530 Brief adjudicative proceedings.**

(1) Pursuant to RCW 34.05.482, the department will use brief adjudicative proceedings where not violative of law and where protection of the public interest does not require the department to give notice and an opportunity to participate to persons other than the parties. The department may use brief adjudicative proceedings for the following matters:

(a) Actions taken by the department with respect to motorist information sign permit applications and revocations under WAC 468-70-070.

(b) Actions taken by the department with respect to hazardous structures or obstacles that obstruct the air space above ground or water level under RCW 47.68.340 and 47.68.350.

(c) Actions taken by the department after the state patrol has confiscated an overweight permit or overlength permit and the department has suspended or revoked the permit under RCW 46.44.105(9).

(d) Actions taken by the department with respect to its motor carrier service office's permit refund policy.

(2) For matters listed in subsection (1) of this section, the department's notice of action shall provide the name and address of the appropriate office at which an application for a brief adjudicative proceeding must be filed. An application for a brief adjudicative proceeding shall be served on the department by certified mail, registered mail, or personal service.

(3) An application for a brief adjudicative proceeding must be filed within twenty days from the date of service of the department's notice of action. Such application shall contain a written explanation of the party's view of the matter and may be supported by affidavits. Other parties may file a written response, including supporting affidavits, within ten days after receipt of the application for a brief adjudicative proceeding. Copies of the response shall be served on all parties.

(4) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the secretary. The presiding officer shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

(5) The presiding officer may, in his or her discretion, entertain oral argument from the parties or their representatives, at a time and place designated by the presiding officer.

(6) No witnesses may appear to testify.

(7) In addition to the record, the presiding officer may employ agency expertise as a basis for decision.

(8) If the party is present at the time any unfavorable action is taken, the presiding officer shall make a brief oral statement of the reasons for the decision. The decision on an application shall be expressed in a written order which shall be served upon all parties within ten days after entry.

(9) The presiding officer's written decision is an initial order. An initial order shall become the final order within twenty-one days of the date of service.

(10) A petition for review of an initial order shall be served by certified mail, registered mail, or personal service upon the Office of the Secretary of the Washington State Department of Transportation, 3D25 Transportation, Olympia, WA 98504-7316, and copies shall be served on all parties. A petition for review of an initial order shall contain an explanation of the party's view of the matter and a statement of reasons why the initial order is incorrect. Responses to a petition for review of an initial order shall be served on the secretary at the above designated address and on all parties within ten days after receipt of the petition for review.

(11) The secretary or his or her designee shall act as the reviewing officer and shall conduct a review of an initial order upon the timely service of a petition for review or upon his or her own motion. The reviewing officer shall adopt, modify, or reject the initial order; but the reviewing officer shall not take any action on review less favorable to any party without giving that party notice and opportunity to explain the party's view of the matter.

(12) The order on review shall be in writing, shall include a brief statement of the reasons for the decision, and shall be entered within twenty days after the date of the initial order or the petition for review, whichever is later. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.

(13) The record in a brief adjudicative proceeding shall consist of any documents regarding the matters that were considered or prepared by the presiding officer for the brief adjudicative proceedings and/or by the reviewing officer for any review.

WSR 94-14-102

PERMANENT RULES

DEPARTMENT OF TRANSPORTATION

[Order 146—Filed July 6, 1994, 11:11 a.m.]

Date of Adoption: July 6, 1994.

Purpose: To set forth the procedures to govern departmental relocation hearings.

Citation of Existing Rules Affected by this Order: Repealing WAC 468-100-010 (5), (7) through (16); and amending WAC 468-100-010(6).

Statutory Authority for Adoption: Chapter 34.05 RCW.

Other Authority: RCW 47.01.101(5).

Pursuant to notice filed as WSR 94-12-071 on May 31, 1994.

Effective Date of Rule: Thirty-one days after filing.

July 6, 1994

S. A. Moon

Deputy Secretary

AMENDATORY SECTION (Amending Order 121, filed 8/14/89, effective 9/14/89)

WAC 468-100-010 Appeals. The displacing agency shall promptly review appeals in accordance with the requirements of applicable law and this chapter.

(1) **Actions which may be appealed:** A person may file written notice of an appeal with the displacing agency in any case in which the person believes that the agency has failed to properly determine the person's eligibility for, or the amount of, a payment required under WAC 468-100-106 or 468-100-107, or a relocation payment required under this chapter.

(2) **Limitations:** A person is entitled to only such benefits as are specifically delineated in this chapter.

(3) **Form of notice:** The displacing agency shall consider a written appeal regardless of form. The appeal notice or letter should state what issues are being claimed, the reasons why the aggrieved person believes the claim should be allowed, and how the person believes he or she is otherwise aggrieved. The letter or notice should clearly identify the displacing agency's project and parcel of real property involved and should bear the signature and address of the aggrieved person or the person's authorized representative. The displacing agency may refuse to schedule any review or hearing on an appeal until these requirements have been complied with or may issue an order providing for dismissal of such appeal upon failure to comply within a reasonable time specified by the agency.

(4) **Time limit for initiating appeal:** The time limit shall be sixty days after the person receives written notification of the agency's determination on the person's claim.

(5) ~~(Right to representation: A person has a right to be represented by legal counsel or other representative in connection with the person's appeal, but solely at the person's own expense.~~

(6) **Review of files by person making appeal:** The displacing agency shall permit a person to inspect and copy all materials pertinent to the person's appeal, except materials which are classified as confidential by the agency. The agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

~~((7) Preliminary review authorized: In order to ensure consistent and uniform administration of the relocation assistance program, a displacing agency may establish an administrative review procedure for a preliminary review of all appeal notifications.~~

~~(8) Preliminary review notice: In the event of a preliminary review, the aggrieved person shall be given notice of such review and a reasonable time specified by the displacing agency to present any documents, written statements, or written evidence in support of the person's claim. Such review shall be accomplished promptly after receipt of appropriate notice by the aggrieved person. The agency shall notify the person of the decision resulting from the review and the person's right to be heard (a hearing) in the event the agency does not allow a claim, in whole or in part.~~

~~(9) Applicability of the Administrative Procedure Act:~~

~~(a) In accordance with RCW 8.26.010(3), the provisions of the Administrative Procedure Act (Title 34 RCW) regarding the resolution of contested cases shall be utilized as applicable by the head of the displacing agency in resolving any appeal filed pursuant to this section.~~

~~(b) References to "agency" in the Administrative Procedure Act shall be understood to mean "displacing agency" for the purposes of this chapter.~~

~~(10) Time and place of hearing: The hearing officer shall hold hearing within forty five days following receipt from the displacing agency of the notice of appeal, and upon not less than twenty days' notice to the aggrieved person. Hearing shall be held in the county where the real property is located, or at such other location as may be agreed upon between the hearing officer and the aggrieved person. Failure to hold such hearing within the time specified herein, however, shall not affect the authority of the hearing officer, the necessity of the hearing, or the rights of the parties involved.~~

~~(11) Hearing process:~~

~~(a) Admissibility of evidence: Subject to the other provisions of this chapter, all relevant evidence is admissible which, in the opinion of the hearing officer, is the best evidence reasonably obtainable, having due regard for its necessity, availability and trustworthiness. All pertinent justification and other material submitted by the person and obtained by the agency, and all other available information that is needed to ensure a fair and full review of the appeal, shall be considered, *de novo* (i.e., from the beginning, anew, afresh, a second time). Authorities pertinent to a review or hearing shall be matters of applicable law, including the displacing agency's procedures established pursuant to WAC 468-100-004(1) and the provisions of this chapter. In passing on the admissibility of evidence, the hearing officer shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings, in matters not involving trial by jury, in the superior court of the state of Washington.~~

~~(b) Subpoenas: Every subpoena shall state the name of the displacing agency and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under the person's control at a specified time and place.~~

~~(c) Service: Unless the service of a subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering the person on demand the fees for one day's attendance and the mileage allowed by law.~~

~~(d) Proof of service: The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit, or acknowledgment of service with the displacing agency or the hearing officer before whom the witness is required to testify or produce evidence. If service is made by a person other than an officer of the displacing agency and such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.~~

~~(e) Quashing: Upon motion made promptly, and in any event at or before the time specified in the subpoena for compliance, by the person to whom the subpoena was issued, any party may:~~

~~(i) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or~~

~~(ii) Condition denial of the motion upon just and reasonable conditions.~~

~~(f) Scope—Geographical: Such attendance of witnesses and such production of evidence may be required from any place in the state of Washington, at any designated place of hearing.~~

~~(g) Depositions and interrogatories: Except as may be otherwise provided, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for use as evidence in the proceeding, except that leave must be obtained if notice of the taking is served by a proponent within twenty days after the filing of a notice of appeal. The attendance of witnesses may be compelled by the use of a subpoena. Depositions shall be taken only in accordance with this regulation and the regulation on subpoenas.~~

~~(h) Scope (relevance): Unless otherwise ordered, the deponent may be examined regarding any matter not privileged, which is relevant to the subject matter involved in the proceeding.~~

~~(i) Protection of parties and deponents: A party desiring to take a deposition of any person upon oral examination shall give reasonable notice of not less than three days in writing to all parties. The notice shall state the time and place for taking the deposition, the name and address of each person to be examined, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. On motion of a party upon whom the notice is served, the hearing officer may for cause shown, enlarge or shorten the time. If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used as other depositions. After notice is served for taking a deposition, upon its own motion or upon motion reasonably made by any party or by the person to be examined and upon notice and for good cause shown, the hearing officer may make an order that the deposition shall not be taken, or that it may be taken only at some designated place other than that stated in the notice, or that it may be taken only on written interrogatories, or that certain matters~~

shall not be inquired into, or that the scope of the examination shall be limited to certain matters, or any other order which justice requires.

(j) ~~Recordation — Objections:~~ The officer before whom the deposition is to be taken shall put the witness on oath and shall personally or by someone acting under the officer's direction and in the officer's presence, record the testimony. Objections to notice, qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented or to the conduct of the officer, or of any party, shall be noted by the officer upon the deposition. All objections by any party not so made are waived.

(k) ~~Signing attestation and returns:~~ When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefore; and the deposition may then be used as fully as though signed, unless on a motion to suppress, the hearing officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(l) ~~Use and effect — Certification:~~ The officer shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope endorsed with the title of proceeding and marked "Deposition of (here insert name of witness)" and shall promptly send it by registered or certified mail to the designated hearing officer, for filing. The party taking the deposition shall give prompt notice of its filing to all other parties. Upon payment of reasonable charges therefore, the officer shall furnish a copy of the deposition to any party or to the deponent.

Subject to rulings by the hearing officer upon objections a deposition taken and filed as provided in this rule will not become a part of the record in the proceeding until received in evidence by the hearing officer upon the hearing officer's own motion or the motion of any party. Except by agreement of the parties or ruling of the hearing officer, a deposition will be received only in its entirety. A party does not make a second party, or the privy of a second party, or any hostile witness the party's witness by taking the second party's deposition. Any party may rebut any relevant evidence contained in a deposition whether introduced by the party or any other party.

(m) ~~Depositions upon interrogatories:~~ Where the deposition is taken upon written interrogatories, the party offering the testimony shall separately and consecutively number each interrogatory and file and serve them with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom they are to be taken. Within ten

days thereafter a party so served may serve cross-interrogatories upon the party proposing to take the deposition. Within five days thereafter, the latter may serve redirect interrogatories upon the party who served cross-interrogatories.

(n) ~~Official notice — Matters of law:~~ The hearing officer, upon request made before or during a hearing, will officially notice:

(i) ~~Federal law:~~ The Constitution; congressional acts, resolutions, records, journals and committee reports; decisions of federal courts and administrative agencies; executive orders and proclamations; and all rules, orders and official publications;

(ii) ~~State law:~~ The Constitution of the state of Washington, acts of the legislature, resolutions, records, journals and committee reports; decisions of administrative agencies of the state of Washington, executive orders and proclamations by the governor; and all rules, orders and official publications;

(iii) ~~Governmental organization:~~ Organization, territorial limitations, officers, departments, and general administration of the government of the state of Washington, the United States, and several states and foreign nations;

(iv) ~~Agency organization:~~ The department, commission or board organization, administration, officers, personnel, and official publications.

(o) ~~Record:~~ The record on any appeal shall consist of the decision or order appealed from the notice of appeal therefrom, responsive pleadings, if any, and notices of appearances, and any other written applications, motions, briefs, stipulations or requests duly filed by any party. Such record shall also include all depositions, the transcript of testimony and argument and other proceedings at the hearing, together with all exhibits offered. No part of the records of the displacing agency or other documents shall be made part of the record unless admitted in evidence.

(12) ~~Submission of proposed decision:~~ The hearing officer shall, within thirty days after completion of the hearing and record, prepare in writing a proposed decision containing findings and conclusions as to each contested issue of fact. The hearing officer shall file the original, signed by the officer, with the head of the displacing agency and mail, by certified or registered first class mail, a copy to each aggrieved person who is a party to the appeal and to the party's attorney or representative of record.

(13) ~~Exception — Time for filing:~~ Within twenty days, or such further period as the hearing officer may allow, any party to the appeal may file with the hearing officer, a written statement of exceptions to the proposed decision of the hearing officer.

(14) ~~Reply to exceptions:~~ Any party may, within fifteen days after the filing of an exception by an adverse party, submit a reply to exceptions, a written brief, or a statement of position regarding the matters on which exceptions were taken. In such instances, a copy of the transcript of testimony and other proceedings of the hearing shall be made available to the parties.

(15) ~~Submission of record and issuance of final decision and order:~~ The entire record, including all exhibits and proposed findings of fact, conclusions of law, and decision together with all exceptions and replies to exceptions, shall be submitted to the head of the displacing

~~agency. Upon receipt of the entire record, the head of the displacing agency, in a manner consistent with RCW 34.04.110, shall consider the same and may either adopt, modify, or reject the proposed findings of fact, conclusions of law, and decision, and shall issue the final decision and order of the displacing agency. Such decision and order shall be made promptly after receipt of the entire record. If the full relief requested is not granted, the agency shall advise the person of the person's right to seek judicial review.~~

~~(16) Official to review appeal: The official conducting a review of an appeal shall not have been directly involved in the action appealed and shall be either the head of the agency, that person's authorized designee, or as otherwise required by applicable law.)~~ (6) **Hearing process:** Except as they may be inconsistent with the rules of this chapter, the department of transportation adopts the practice and procedure rules as set forth in chapter 468-10 WAC for appeals under this chapter. Where the rules of this chapter conflict with those of chapter 468-10 or 10-08 WAC, the rules of this chapter shall govern.

(7) **Discovery:** Discovery will be available in relocation appeals as follows: Any party to a relocation appeal may obtain discovery from any party by written interrogatories, written admissions, oral depositions, subpoena duces tecums, and written requests for production of documents. The procedures regarding these methods of discovery are found at CR 28 through 36 and 45(b) as now or hereafter amended and are hereby incorporated in this section.

**WSR 94-14-110
PERMANENT RULES
OFFICE OF**

INSURANCE COMMISSIONER

[Order R 94-14—Filed July 6, 1994, 11:55 a.m.]

Date of Adoption: June 28, 1994.

Purpose: Amend to identify changes from one-year to two-year renewal cycle. Update chapter 284-12 WAC to conform to amendments, chapter 131, Laws of 1994.

Citation of Existing Rules Affected by this Order: Amending WAC 284-12-090 and 284-12-270.

Statutory Authority for Adoption: RCW 48.01.030, 48.02.060(3), 48.14.010, and 48.17.500(3).

Pursuant to notice filed as WSR 94-11-100 on May 17, 1994.

Effective Date of Rule: Thirty-one days after filing.

June 28, 1994

Deborah Senn

Insurance Commissioner

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 94-13-065
EMERGENCY RULES
FOREST PRACTICES BOARD

[Filed June 9, 1994, 2:23 p.m.]

Date of Adoption: June 8, 1994.

Purpose: To modify forest practices rules, in order to protect public resources while maintaining a viable timber industry.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-070, 222-30-100, 222-38-020 and 222-38-030; and new sections WAC 222-30-065 and 222-30-075.

Statutory Authority for Adoption: RCW 76.09.040 and chapter 34.05 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule is necessary because the permanent rule protecting the northern spotted owl sunseted on February 9, 1994. This emergency rule will provide protection to the species while the Forest Practices Board conducts the permanent rule adoption process. The marbled murrelet was listed as by the USF&WS in November 1992 and by the Wildlife Commission in October 1993. This emergency rule replaces the board's existing emergency rule on marbled murrelets, which was adopted on March 10, 1994.

Effective Date of Rule: Immediately.

June 8, 1994

Jennifer M. Belcher

Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 263 [WSR 93-12-001], filed 6/16/76 [5/19/93])

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

"Appeals board" means the forest practices appeals board established in the act.

"Area of resource sensitivity" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"Board" means the forest practices board established by the act.

"Bog" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce and may be associated with open water.

"Borrow pit" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"Chemicals" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"Clearcut" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Commercial tree species" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"Completion of harvest" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided*, That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"Constructed wetlands" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"Contamination" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"Conversion option harvest plan" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"Conversion to a use other than commercial timber operation" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"Critical habitat (federal)" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

"Critical nesting season" means: for marbled murrelets - April 1 to August 15th.

"Critical wildlife habitat (state)" means those habitats designated by the board in accordance with WAC 222-16-080.

"Cultural resources" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"Cumulative effects" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"Daily peak activity period" means: for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"Debris" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"Department" means the department of natural resources.

"Eastern Washington" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site

preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided*, That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

- Road and trail construction;
- Harvesting, final and intermediate;
- Precommercial thinning;
- Reforestation;
- Fertilization;
- Prevention and suppression of diseases and insects;
- Salvage of trees; and
- Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided*, That Christmas trees are forest trees and: *Provided further*, That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location documented by the department of fish and wildlife for status 1, 2 or 3 northern spotted owls. The department shall rely upon the department of fish and wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).

"**Notice to comply**" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"**Occupied marbled murrelet site**" means:

(1) a contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

(a) a nest is located; or

(b) downy chicks or eggs or egg shells are found; or

(c) marbled murrelets are detected flying below, through, into or out of the forest canopy within; or

(d) birds calling from a stationary location within the area; or

(e) birds circling above the canopy; or

(2) a contiguous forested area which is not suitable marbled murrelet habitat in which any of the behaviors or conditions listed in subsection (1) has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

The outer perimeter of the occupied site shall be presumed to be the beginning of any gap greater than 300 feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat." For sites defined under (2), above, it shall be the beginning of any gap greater than 300 feet wide where one or more of the distinguishing vegetative characteristics important to murrelets is lacking.

The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

"**Operator**" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"**Ordinary high-water mark**" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided*, That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"**Other forest chemicals**" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"**Park**" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"**Partial cutting**" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"**Pesticide**" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"**Plantable area**" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"**Power equipment**" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"**Public resources**" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"**Rehabilitation**" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"**Relief culvert**" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"**Resource characteristics**" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"**Riparian management zone**" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"**Rodenticide**" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"**Salvage**" means the removal of snags, down logs, windthrow, or dead and dying material.

"**Scarification**" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"**Shorelines of the state**" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"**Side casting**" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"**Site preparation**" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"**Skid trail**" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"**Slash**" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"**Spoil**" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"**Suitable marbled murrelet habitat**" means a contiguous forested area with all of the following characteristics:

(1) within 40 miles of marine waters;

(2) containing at least 8 trees per acre equal to or greater than 32 inches dbh;

(3) at least 40% of the trees equal to or greater than 32 inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and

(4) containing at least 2 nesting platforms per acre. Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than 7 inches in diameter and 50 feet or more in height above the ground.

"**Stop work order**" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"**Threatened or endangered species**" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

"**Timber**" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"**Water bar**" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"**Watershed administrative unit (WAU)**" means an area shown on the map specified in WAC 222-22-020(1).

"**Watershed analysis**" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"**Weed**" is any plant which tends to overgrow or choke out more desirable vegetation.

"**Western Washington**" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"**Wetland**" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"**Wetland functions**" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"**Wetland management zone**" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"**Wildlife**" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"**Wildlife reserve trees**" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"**Windthrow**" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

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

AMENDATORY SECTION (Amending WSR 92-15-011 [WSR 93-12-001], filed 7/2/92 [5/19/93], effective 8/2/92 [6/19/93])

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the 500 acres of suitable nesting, breeding, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of fish and wildlife. ~~((This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date t))~~ The forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

~~((The department shall rely upon the department of wildlife for the determination of status based on the following definitions:~~

~~Status 1 Pair or reproductive—the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.~~

~~Status 2 Two birds, pair status unknown—the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.~~

~~Status 3 Resident territorial single—the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area:-))~~

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet -

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site;

(ii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iii) Use of aircraft below 1,300 feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(iv) Harvesting within a 300 foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of 75 trees per acre greater than 6 inches dbh; provided that 25 of which shall be greater than 12 inches dbh including 5 trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of 200 feet and extended to maximum of 400 feet as long as an average of 300 feet is maintained.

(v) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vi) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below 1300 feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Marbled murrelet critical wildlife habitat (state) shall not include habitat where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of fish and wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including

baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-23-056], filed 6/16/76 [11/17/92])

WAC 222-24-030 Road construction. (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

***(2) Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

***(4) Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

***(5) Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

***(6) Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outslowing or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

***(7) Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

***(8) End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

***(9) Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

***(10) Disturbance avoidance.** Road construction, operation of heavy equipment and blasting shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-050 Felling and bucking. ***(1) Falling along water.**

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

***(2) Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

***(3) Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

***(4) Falling in selective and partial cuts.** Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

***(5) Disturbance avoidance.** Felling and bucking shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-060 Cable yarding. ***(1) Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

***(2) Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

***(3) Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

***(4) Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

(5) Direction of yarding.

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

***(c)** When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) Disturbance avoidance. The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

NEW SECTION

WAC 222-30-065 Helicopter yarding. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-070 Tractor and wheeled skidding systems. ***(1) Typed waters and wetlands.**

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

***(2) Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding

machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

***(3) Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

***(4) Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

***(5) Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

(6) Protection of residual timber. Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

***(7) Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

***(8) Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

***(9) Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

(10) Disturbance avoidance. The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

NEW SECTION

WAC 222-30-075 Timber and rock hauling. The following limits on timber and rock hauling shall apply within 0.25 mile northern spotted owl site center between March 1 and August 31:

- (1) At all times of the day vehicle speed shall be limited to 15 miles per hour; and
- (2) Timber and rock hauling shall be limited to 1 hour after official sunrise to 1 hour before official sunset; and
- (3) All reasonable attempts shall be made to minimize traffic within suitable habitat, attempt to route traffic through non-habitat.

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

AMENDATORY SECTION (Amending Order 263 [WSR 92-15-011], filed 6/16/76 [7/2/92])

WAC 222-30-100 Slash disposal or prescribed burning. (1) **Slash disposal techniques:**

*(a) Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided*, That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

*(c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

*(4) **Removing slash and debris** from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be

removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

*(5) **Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

(6) Disturbance avoidance. Burning shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

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

AMENDATORY SECTION (Amending Order 263 [WSR 93-12-001], filed 6/16/76 [5/19/93])

WAC 222-38-020 Handling, storage, and application of pesticides. *(1) **No pesticide leakage, contamination, pollution.**

Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

*(2) **Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

*(3) **Riparian management zone.** Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(4) **Wetland management zone.** Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(5) **Aerial application of pesticides.**

(a) To keep pesticides out of the water, leave a 50 foot buffer strip on all typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be

required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off spray equipment during turns and over open water.

(e) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an over-flight of the area shall be made by the pilot with the marked photos or maps.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerielly treated units is required. The signs will contain the name of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

(h) Disturbance avoidance. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

***(6) Ground application of pesticides with power equipment.**

Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

***(7) Hand application of pesticides.**

Apply only to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps.

***(8) Limitations on application.** Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

***(9) Container disposal.** Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

***(10) Daily records - aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

***(11) Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

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

AMENDATORY SECTION (Amending WSR 92-15-011 [93-12-001], filed 7/2/92 [5/19/93], effective 8/2/92 [6/19/93])

WAC 222-38-030 Handling, storage, and application of fertilizers. ***(1) Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

***(2) Riparian management zone.** Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(3) Wetland management zone.** Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

***(4) Aerial application of fertilizer.**

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an over-flight of the area shall be made by the pilot with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

(g) Disturbance avoidance. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

***(5) Ground and hand application of fertilizers.** Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

***(6) Reporting of fertilizer spills.** All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

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

**WSR 94-14-004
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3739—Filed June 23, 1994, 9:44 a.m., effective July 1, 1994, 12:01 a.m.]

Date of Adoption: June 23, 1994.

Purpose: Implements the standard state supplemental amount for SSI ineligible spouses to the minimum required amount as required in 1994 Washington state supplemental budget (ESSB 6244).

Citation of Existing Rules Affected by this Order: Amending WAC 388-250-1700 Standards of assistance—Supplemental security income.

Statutory Authority for Adoption: ESSB 6244, 53rd legislature section 1, chapter 6, Laws of 1994 sp. sess.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Implements payment reduction required in the 1994 supplemental budget. The SSI state supplement to SSI ineligible spouses will be reduced to the minimum required amount. Reduces program expenditures to ensure a balanced state budget as required by the state constitution. Continues funding for departmental programs required to safeguard programs which are consistent with the direction given by the legislature. This emergency adoption reduces the SSI state supplemental payment necessary to comply with the emergency enactment in ESSB 6244, Laws of 1994.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 23, 1994
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3729, filed 4/6/94, effective 5/7/94)

WAC 388-250-1700 Standards of assistance—Supplemental security income. Effective ~~((January))~~ July 1, 1994, the standards of SSI assistance paid to an eligible individual and couple are:

(1) Living alone (own household or alternate care, except nursing homes or medical institutions).

	Standard	Federal SSI Benefit	State Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties			
Individual	\$474.00	\$446.00	28.00
Individual with one essential person	691.00	669.00	22.00
Couple:			
Both eligible	691.00	669.00	22.00
Includes one essential person	691.00	669.00	22.00
Includes ineligible spouse	((638.00))	446.00	((192.00))
	<u>614.20</u>		<u>168.20</u>
Area II: All Counties Other Than the Above			
Individual	\$453.55	\$446.00	7.55
Individual with one essential person	669.00	669.00	0
Couple:			
Both eligible	669.00	669.00	0
Includes one essential person	669.00	669.00	0
Includes ineligible spouse	((606.15))	446.00	((160.15))
	<u>584.25</u>		<u>138.25</u>

Areas I and II:

Eligible individual with more than one essential persons: \$446 for eligible individual plus \$223 for each essential person (no state supplement).

Eligible couple with one or more essential persons: \$669 for eligible couple plus \$223 for each essential person (no state supplement).

(2) Shared living (Supplied shelter): Area I and II

	Standard	Federal SSI Benefit	State Supplement
Individual	\$303.15	\$297.34	\$ 5.81
Individual with one essential person	452.30	446.00	6.30
Couple:			
Both eligible	452.30	446.00	6.30
Includes one essential person	452.30	446.00	6.30
Includes ineligible spouse	((416.97))	297.34	((119.63))
	<u>401.10</u>		<u>103.76</u>

Area I and II:

Eligible individual with more than one essential person: \$297.34 for eligible individual plus \$148.67 for each essential person (no state supplement).

Eligible couple with one or more essential person: \$446 for eligible couple plus \$148.67 for each essential person (no state supplement).

Area I and Area II:

Medicaid Institutions	41.62	30.00	11.62
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**WSR 94-14-005
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)**

[Order 3746—Filed June 23, 1994, 9:45 a.m., effective July 1, 1994, 12:01 a.m.]

Date of Adoption: June 23, 1994.

EMERGENCY

Purpose: Removes the detailed per diem rates and ancillary rates per relative value unit (RVU) from the WAC and adds a reference indicating schedules of current charge rates are unavailable at each hospital. Enables the hospitals to more timely revise rates to keep them more concurrent with RCW 43.20B.325 that "charges for hospitalization of patients in state mental health hospitals be based on the cost of operations.

Citation of Existing Rules Affected by this Order: Amending WAC 275-16-030 Schedule of charges.

Statutory Authority for Adoption: RCW 43.20B.325.

Pursuant to RCW 34.05.350 the agency for good cause finds that 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: RCW 43.20B.325 requires that charges for hospitalization of patients in state mental health hospitals be based on the cost of operations. Federal Medicare and Medicaid rules mandate the presence of charges as a precondition to payment. Enables hospitals to more timely revise rates to keep them in line with the changing costs. Does not change the RCW intent to keep charges based on the cost of operations.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 23, 1994

Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3659, filed 10/27/93, effective 11/27/93)

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

~~(1) COSTING AND BILLING RATES~~

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

~~(a) INPATIENT SERVICES~~

Hospital Costs Per Day	\$ 286.20	342.30	293.70
Physician Costs	*	N/A	*

~~*The department shall bill the client for physician costs on a fee for service basis.~~

~~(b) OUTPATIENT SERVICES~~

~~Per diem~~

Outpatient	<hr/>	
Day Treatment	<hr/>	
Per Day	37.26	<hr/>
Per Hour	6.21	<hr/>

~~(c) ANCILLARY SERVICES~~

~~Per relative value unit[†]~~

Radiology	14.09	14.09	13.20
Laboratory	.86	.86	.60
Medical Clinics	15.07	15.07	4.40
Electroencephalography	2.11	2.11	<hr/>
Electrocardiology	.39	.39	1.10
Physical Therapy	10.18	10.18	17.23
Occupational Therapy	71.23	71.23	27.36
Speech Therapy			28.69
Dental	39.81	39.81	46.03
Podiatry			1.50

~~(d) RESIDENTIAL SERVICES~~

	Paids	Portals
Costs Per Day	171.00	94.35

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

[†]California Medical Association. *Relative Value Studies*. Fifth edition. San Francisco: 693 Sutter Publication, Inc., 1969, 135 pp. Dental relative value units are calculated based on the American Dental Association Survey of 1990 national dental fees). A schedule of each hospital's charge rates will be computed under this section based on actual operating costs of the hospital for the previous year. The schedule will be prepared by the secretary's designee, from financial and statistical information contained in hospital records. The schedule will be updated at least annually. All changes under this section shall be prepared in advance of the effective date. Each hospital will make available the schedule of current charge rates upon request.

WSR 94-14-017
EMERGENCY RULES
HEALTH CARE AUTHORITY
[Filed June 23, 1994, 3:57 p.m.]

Date of Adoption: June 23, 1994.

Purpose: Rule is designed to carry out the purposes of chapter 70.47 RCW, the Health Care Access Act.

Citation of Existing Rules Affected by this Order: Amending WAC 55-01-010, 55-01-020, 55-01-030, 55-01-040, 55-01-050, 55-01-060, and 55-01-070.

Statutory Authority for Adoption: RCW 70.47.050.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Changes were made to accommodate revisions in the provisions for Medicaid/Basic health plan eligibility coordination in the Health Services Act, E2SSB 5304.

EMERGENCY

Effective Date of Rule: Immediately.

June 23, 1994
Elin Meyer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-14-088, filed 6/30/92, effective 7/31/92)

WAC 55-01-010 Definitions. The following definitions apply throughout these rules.

(1) "Administrator" means the ~~((Washington basic health plan))~~ administrator of the Washington state health care authority (HCA) or designee.

~~((2))~~ "Certificate of coverage" means a written document issued by the plan to a subscriber which describes the covered services, premiums, grievance procedures and other rights and responsibilities of enrollees. The certificate of coverage issued to a subscriber shall pertain to the subscriber and family dependents.

(2) "Appeal procedure" means a written procedure for resolution of problems or concerns raised by enrollees.

(3) "Basic health plan" (BHP) means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the HCA administrator through managed health care systems, created by chapter 70.47 RCW. The Washington state basic health plan is a program within the Washington state health care authority.

~~((3))~~ (4) "Copayment" means a payment indicated in the schedule of benefits which is made by an enrollee to a managed health care system, ~~((or health care provider, or to the plan, when specifically instructed to do so by the plan, for covered services provided to the enrollee.))~~

~~((4))~~ (5) "Covered services" means those services and benefits to which an enrollee is entitled, under the ~~((certificate of coverage))~~ benefit booklet issued by the ~~((plan))~~ HCA to the enrollee (or to a subscriber on behalf of the enrollee), in exchange for payment of premium and applicable copayments.

~~((5))~~ "Dependent child" means an individual's unmarried natural child, stepchild, or legally adopted child, who is either (a) younger than age nineteen, or (b) younger than age twenty three and (i) is a full-time student at an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, or (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an educational organization described in WAC 55-01-010 (5)(b)(i).)

(6) "Effective date of enrollment" means the first date, as established by the ~~((plan))~~ HCA, on which an enrollee is entitled to receive covered services from the enrollee's respective participating managed health care system.

(7) "Eligible dependents." The following are eligible as dependents under the BHP:

(a) Lawful spouse of the subscriber, if not legally separated, who resides in the same residence.

(b) Dependent child who is an unmarried child and who is:

(i) Younger than age nineteen and is a natural child, stepchild or legally adopted child.

(ii) Younger than age twenty-three who is a registered student in full-time attendance at an accredited secondary school, college, university, vocational school, or school of nursing. Dependent student eligibility continues year-round for those who attend three of the four school quarters and for the quarter following graduation provided the subscriber is covered at the same time; the dependent limiting age has not been exceeded; and the dependent meets all other eligibility requirements.

(iii) Legal dependent of any age who is incapable of self-support due to developmental disability or physical handicap.

(8) "Employee" means one who is in the employment of an employer, as defined by RCW 50.04.080.

~~((7))~~ (9) "Enrollee" means a person who meets all eligibility requirements, who is enrolled in the ~~((plan))~~ BHP, and for whom applicable premium payments have been made.

~~((8))~~ (10) "Family" means an individual or an individual and the individual's ~~((spouse, if not legally separated, and the individual's dependent children))~~ eligible dependents. For purposes of eligibility determination and enrollment in the ~~((plan))~~ BHP, an individual, or dependent cannot be a member of more than one family.

~~((9))~~ "Family dependent" means a subscriber's legal spouse, if not legally separated, or the subscriber's dependent child, who meets all eligibility requirements, is enrolled in the plan, and for whom the applicable premium has been paid.

(11) "Financial sponsor" means a person, employer or other entity that is responsible for payment of all or a designated portion of the monthly premiums on behalf of a subscriber and any family dependents.

~~((10))~~ "Grievance procedure" means the formal process for resolution of problems or concerns raised by enrollees which cannot be resolved in an informal manner to the enrollee's satisfaction. "Grievance" means a problem or concern presented for resolution through a grievance procedure.

~~((11))~~ (12) "Gross family income" means ~~((the total income of all members of an enrollee's family, regardless of whether those family members enroll in the plan.~~

(a) For purposes of this definition, for applications for enrollment which are received by the plan on or before March 31, 1989, "income" includes but is not limited to wages and salaries, net income from rentals or self-employment, tips, interest income, dividends, royalties, public or private pensions, and Social Security benefits.

(b) For purposes of this definition, for applications for enrollment which are received by the plan on or after April 1, 1989 and for premium payments which are made for coverage on or after June 1, 1989, "income" means total cash receipts of the subscriber and eligible dependents before taxes from all sources, with the exceptions noted below.

~~((12))~~ (a) Income includes: (i) money wages and salaries before any deductions regardless of whether those eligible dependents enroll in BHP; (ii) net receipts from nonfarm self-employment (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); (iii) net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper,

after deductions for farm operating expenses); (iv) regular payments from Social Security, child support, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance ~~((including aid to families with dependent children, supplemental security income, emergency assistance money payments, and non-federally funded general assistance or general relief money payments)), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions))~~ (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships and assistantships, if received as or convertible by the recipient into cash; (v) work study; and (vi) dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

(b) In the event that an item of income is received periodically, but less frequently than once per month, the latest amount received will be divided by the number of months in the period (i.e., between payments) in order to calculate an average amount per month. That monthly average will be combined with other monthly items of income to derive a monthly total, which will be used in the calculation of income as a percentage of federal poverty level.

~~((ii))~~ (c) Income does not include the following types of money received: (i) Capital gains; (ii) any assets drawn down as withdrawals from a bank, the sale of property, a house or a car; (iii) tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury (except workers' compensation)~~((Also excluded are))~~; (iv) noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance~~((-));~~ (v) ~~((e))~~ "Income" shall not include income earned by dependent children except for regular payments from Social Security, nor shall it include income of a family member who resides in another household when such income is not available to ~~((those family members))~~ the subscriber and eligible dependents seeking enrollment in the ((plan)) BHP; and (vi) university scholarships, grants, fellowships and assistantships if not convertible to cash.

~~((d))~~ In the event that an item of income is received periodically, but less frequently than once per month, the latest amount received will be divided by the number of months in the period (i.e., between payments) in order to calculate an average amount per month. That monthly average will be combined with other monthly items of income to derive a monthly total, which will be used in the calculation of income as a percentage of federal poverty level. (For example, if an applicant receives quarterly interest payments in January, April, July, and October, and applies for coverage by the plan in September, the July payment will be divided by three to obtain a monthly income amount.))

~~((12))~~ (13) "Managed health care system" (or "MHCS") means any health care organization who has entered into a contract with the HCA to provide the BHP to enrollees, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to ~~((a defined patient population enrolled in the plan and in the managed health care system))~~ enrollees. On and after July 1, 1995, "MHCS" means a certified health plan as defined in RCW 43-72-010.

(14) "Medicaid" means the Title XIX Medicaid program. This medical care program is administered by the Medical Assistance Administration to the "categorically needy" as defined in chapters 388-82 and 388-92 WAC and to those defined as "medically needy" under WAC 388-80-005(45).

~~((13))~~ (15) "Medicare" means programs established by Title XVIII of Public Law 89-97, as amended, "Health Insurance for the Aged and Disabled."

(16) "Benefit booklet" means a written document issued by the HCA to a subscriber which describes the covered services, premiums, appeal procedures and other rights and responsibilities of enrollees. The benefit booklet represents the enrollee's certificate of coverage. The benefit booklet issued to a subscriber shall apply to the subscriber and enrolled dependents.

(17) "Nonsubsidized enrollee" means an enrollee who pays, or on whose behalf is paid (excluding Medicaid recipients or those enrollees who are eligible to receive Medicaid benefits), the full costs for participation in BHP, including administrative costs, without any subsidy from BHP.

~~((14))~~ (18) "Open enrollment" means a time period designated by the administrator during which enrollees may apply to transfer their ~~((membership))~~ enrollment from one participating managed health care system to another. ~~((There shall be at least one open enrollment period of at least twenty consecutive days, at least once annually, in each site served by the plan.))~~

~~((15))~~ "Participating," when referring to a managed health care system, means one that has entered into a contract with the plan to provide covered services to enrollees. When referring to a health care provider, "participating" means one who is employed by or has entered into a contract with a participating managed health care system to provide covered services to enrollees.

~~((16))~~ (19) "Premium" means a periodic payment, based upon gross family income and determined under RCW 70.47.060(2), which a subscriber or financial sponsor makes to the ~~((plan))~~ HCA on behalf of the subscriber and ~~((family))~~ eligible dependents in consideration for enrollment in the ~~((plan))~~ BHP.

~~((17))~~ "Provider" or "health care provider" means a health care professional or institution duly licensed and accredited to provide covered services in the state of Washington~~((.))~~

~~((18))~~ (20) "Rate" means the per capita amount, including any applicable premium and prepayment tax imposed under RCW 48.14.020, negotiated by the administrator with and paid to a ~~((participating))~~ managed health

care system, ~~((that is based upon the enrollment of enrollees in the plan and in that MHCS))~~ to provide the schedule of benefits described in the benefit booklet to enrollees.

(21) "Residence" means the one principal physical location at which an individual lives.

~~((19) "Schedule of benefits" means the basic health care services adopted and from time to time amended by the administrator, which enrollees shall be entitled to receive from participating managed health care systems-))~~

~~((20))~~ (22) "Service area" means the geographic area served by a ((participating)) managed health care system as defined in its contract with the ((plan)) HCA.

~~((21))~~ (23) "Site" means a geographic area designated by the ((plan)) HCA in which one or more ((participating)) managed health care systems are offered to enrollees for selection.

~~((22))~~ (24) "Subscriber" is a person who meets all applicable eligibility requirements, is enrolled in the BHP, and for whom the monthly premium has been paid. Notices (with the exception of disenrollment notices) to a subscriber, or if applicable to a financial sponsor, shall be considered notice to the subscriber and his/her enrolled dependents. Disenrollment notices will be sent to the subscriber, or the parent or legal guardian of an enrolled dependent child. ((means an enrollee, or the parent or legal guardian of an enrolled dependent child, who has been designated by the plan as the individual to whom the plan and the managed health care system will issue all notices, information requests and premium bills on behalf of all enrolled family members. For purposes of chapter 55-01 WAC, notice to a subscriber shall be considered notice to all enrolled members of the subscriber's family as well.

~~((23) "Subsidy" means the difference between the rate paid by the administrator to a managed health care system on behalf of an enrollee and the enrollee's premium responsibility.~~

(25) "Subsidized enrollee" means an enrollee whose gross family income does not exceed twice the federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services, for whom funds are available to provide a partial subsidy of the premium according to a premium schedule adopted by the administrator. Medicaid recipients who are enrolled in managed health care systems through the BHP are also considered by the HCA and the department of social and health services to be "subsidized" enrollees.

(26) "Subsidy" means the difference between the premium responsibility of a subsidized enrollee, who is not a Medicaid recipient, and the costs incurred by the HCA in providing coverage to that subsidized enrollee. The costs incurred include both the rate paid by the HCA to a managed health care system on behalf of the enrollee and that portion of the administrative cost of providing the BHP allocated by the administrator to that enrollee.

~~((24) "Washington basic health plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by chapter 70.47 RCW-))~~

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

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-020 Schedule of benefits. (1) The administrator shall design and from time to time may revise a schedule of benefits which shall include such physician services, inpatient and outpatient hospital services, prescription drugs and medications, proven preventive and primary care services, all services necessary for prenatal, postnatal and well-child care, and other services as determined by the administrator to be necessary for basic health care and which enrollees shall receive in return for premium payments to the ~~((plan))~~ HCA and payment of required copayments. The schedule of benefits is subject to copayments, limitations and exclusions detailed in the benefit booklet. ~~((However, for the period beginning July 1, 1992, and ending June 30, 1993, the schedule of benefits shall not include prenatal or postnatal services for enrollees who are eligible for coverage under the medical assistance program under chapter 74.09 RCW, except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider, or except to provide any such services associated with pregnancies diagnosed by the managed care provider before July 1, 1992. The schedule of benefits may include copayments, limitations and exclusions which the administrator determines are appropriate and consistent with the goals and objectives of the plan.~~

(2) In designing and revising the schedule of benefits, the administrator will consider the effects of particular benefits, copayments, limitations and exclusions on access to necessary basic health care services, as well as the cost to the enrollees and to the state, and will also consider generally accepted practices of the health insurance and managed health care industries-))

~~((3))~~ (2) Prior to enrolling in the ((plan)) BHP, each applicant will be given a complete written description of covered benefits, including all copayments, limitations and exclusions. Enrollees will also be given information on the services, providers, facilities, hours of operation, and other information descriptive of the managed health care system(s) available to enrollees in a given site.

~~((4))~~ (3) Subscribers will be given written notice by the ((plan)) HCA of any ((planned revisions to the benefit package and the accompanying premiums,)) changes in the amount and scope of benefits provided under the BHP. Such notice ((tø)) will be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect. ((For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan. The administrator will make available a separate schedule of benefits for children, eighteen years of age and younger, for those who choose to enroll only their dependent children in the plan-))

AMENDATORY SECTION (Amending WSR 92-14-088, filed 6/30/92, effective 7/31/92)

WAC 55-01-030 Premiums and copayments. (1) ~~((Each))~~ Subscribers shall be responsible for paying a monthly premium to the ((plan)) HCA, on behalf of the subscriber and all ((family)) enrolled dependents((, according to a premium schedule to be provided by the plan at the time the subscriber is enrolled by the plan)). A third party may, with the approval of the administrator, become a financial sponsor and pay all or a designated portion of the premium on behalf of any enrollee.

(2) Any co-payments required will be established initially in the contract between the HCA and the MHCS and will be detailed in the benefit booklet. Premiums are based on the subscriber's gross family income, the total number of people in the family, and the age of each enrollee. The benefit booklet shall specify the terms of payment and notice requirement for changes in the premium. ((The amount of premium payable by any subscriber will be based upon the subscriber's gross family income and rates payable to participating managed health care systems, and may vary with the number and ages of individuals enrolled from a given family. A third party may, with the approval of the administrator and through a mechanism acceptable to the administrator, pay the premium on behalf of any enrollee. Premium amounts payable shall be a monthly dollar payment or a percentage of the total rate payable by the plan. A statement of the monthly amount due will be mailed to the subscriber upon determination of eligibility for the plan.

(2) Based on the information provided by an enrollee on the application for enrollment, and any other information obtained by the plan, the enrollee will be informed of the premium amount due. The plan will notify subscribers in writing of any revisions to the premium schedule or to the premium amounts payable to the plan, such notice to be mailed at least thirty days prior to the due date of the premium payment for the month in which such revisions are to take effect, except that retroactive enrollment of a newborn or newly adopted child (as provided in WAC 55-01-050(6)) may result in a corresponding retroactive increase in premium payable to the plan. For purposes of this provision, notice shall be deemed complete upon depositing the written revisions in the United States mail, first class postage paid, directed to the enrollee at the enrollee's last mailing address on file with the plan.

(3) Once the plan has determined that a subscriber and members of the subscriber's family (if any) are eligible for enrollment, the plan will bill the subscriber for the family's first month's premium. The subscriber and family members will not be eligible to receive covered services on the effective date of enrollment specified by the plan unless the premium bill is paid in full by the due date specified on the bill. Thereafter, the plan will bill each subscriber monthly, and the subscriber shall be responsible for payment of the billed amount in full by the date specified on the bill.

(4) Premium bills must be paid in full by the date specified on the bill. Payment may be made in person at the plan's administrative office in Olympia, Washington, or by mail to the address specified on the bill. If the plan does not receive payment in full of a premium bill by 5:00 p.m. on the date specified on the bill, the plan shall issue a notice of

delinquency to the subscriber, at the subscriber's last address on file with the plan, requiring payment in full by a date not less than ten days from the date of the notice. If full payment is not received by the date specified in the delinquency notice, the subscriber and enrolled family members will be disenrolled effective the first day of the month following the last month for which full premium payment was received by the plan. Partial payment of premiums due will be regarded as nonpayment. The plan may disenroll a subscriber and enrolled family members in the event that the subscriber receives more than two delinquency notices in a twelve-month period.

((5)) (3) Enrollees shall be responsible for paying any required copayment, ~~((directly to the provider of a covered service, unless the enrollee has been instructed by his or her managed health care system or the plan to make payment to another party. Copayments must be paid in full by the enrollee at the time of service.))~~ Failure to pay a required copayment in full at the time of service may result in the denial or rescheduling of that service by the managed health care system. Repeated failure to pay copayments in full on a timely basis may result in disenrollment, as provided in WAC 55-01-060(2).

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

AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

WAC 55-01-040 Eligibility. (1) To be eligible for enrollment in the plan, an individual must:

- (a) ~~((Be under age sixty-five; (b) Not be eligible for medicare;))~~ Not be eligible for medicare;

(b) At the time of enrollment, not have or not have voluntarily relinquished health insurance more comprehensive than that offered by the BHP based upon a determination by the administrator. Factors which may be considered in determining whether insurance is more comprehensive include, but are not limited to, enrollee's current benefit plan and the associated co-pays, co-insurance, deductibles and benefit exclusions;

(c) Reside within the service area of a ~~((participating))~~ managed health care system; and

(d) ((Have a gross family income at the time of enrollment that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the Federal Department of Health and Human Services.)) If subsidized and if requested by the administrator, provide proof that a Medicaid eligibility determination has been completed within the last thirty days, including the results of that determination.

Persons not meeting all of these criteria (with the exception of (b)), at the time of initial application, as evidenced by information submitted on the application for enrollment or otherwise obtained by the ((plan)) HCA, will not be enrolled. Criterion (b) must be met at the time of enrollment. An enrollee who subsequently fails to meet all of the criteria, or is later determined to have failed to meet all of the criteria at the time of enrollment, will be disenrolled from the ((plan)) BHP as provided in WAC 55-

01-060(~~—except that an enrollee whose gross family income exceeds twice the federal poverty level may continue as an enrollee for up to six months, provided all other criteria are met and provided that the enrollee pays a monthly premium equal to the rate stated in the contract between the plan and the participating managed health care system selected by the enrollee~~)).

(2) To be eligible for subsidized enrollment in the BHP, an individual must have a gross family income that does not exceed two hundred percent of the federal poverty level as adjusted for family size and determined annually by the U.S. Department of Health and Human Services.

The administrator may require enrollees or prospective enrollees to complete the following eligibility determination process, as further defined under chapter 74.09 RCW (pertaining to eligibility for the Medicaid program), prior to enrollment or continued participation in the BHP.

(a) A prospective or current enrollee shall comply with an HCA request to provide evidence to the administrator that a Medicaid eligibility determination has been completed within the past thirty days and the results of this determination.

(b) The administrator shall ensure that all prospective or current BHP enrollees who are determined to be eligible for Medicaid receive complete information regarding the benefits available through the Medicaid program compared to the benefits they would receive (or are currently receiving) under the BHP.

(c) Failure or refusal on the part of a prospective or current enrollee to comply with a request to complete the Medicaid eligibility determination process may preclude enrollment and may affect continued participation in the BHP subsidy.

~~((2))~~ (3) An individual otherwise eligible for enrollment in the ((plan)) BHP may be denied enrollment if the administrator has determined that acceptance of additional enrollment in a given service area would exceed limits established by the legislature(~~(, would jeopardize the orderly development of the plan in that service area, or would result in an overexpenditure of plan funds)~~) or additional enrollment in a given MHCS would exceed established contract limits, or would result in an overexpenditure of BHP funds, or would jeopardize the orderly development of BHP. In the event that the administrator closes enrollment in a given service area, the ((plan)) HCA will continue to accept applications for enrollment, but will not process those applications for determination of eligibility. The ((plan)) HCA will place the names of applicants on a waiting list in the order in which applications are received, and will so notify the applicants. In the event that enrollment is reopened by the administrator, applicants whose names appear on the waiting list will be notified by the ((plan)) HCA of the opportunity to enroll; provided that the ((plan)) HCA may require new application forms and documentation from applicants on the waiting list, or may contact applicants to verify continued interest in applying, prior to determining their eligibility.

(4) The HCA will accept applications for group enrollment in the BHP from business owners on behalf of themselves and their employees, spouses and dependent children if:

(a) The BHP is the only health plan offered by the business to its eligible employees;

(b) The business owner pays at least fifty percent of the nonsubsidized premium cost of the BHP on behalf of each employee enrolled in the plan; and

(c) The employee is not eligible for medicare.

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

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-050 Enrollment in the plan. (1) Any individual applying for enrollment in the ((plan)) BHP must complete, sign and submit ((the plan's)) a BHP application for enrollment. Applications for enrollment of children under the age of eighteen must be signed by the child's parent or legal guardian, who shall also be held responsible ((by the plan)) for payment of premiums due on behalf of the child. If an applicant is accepted for enrollment, the applicant's signature acknowledges the applicant's obligation to pay the monthly premium in accordance with the terms and conditions identified in the benefit booklet.

(2) Each applicant shall ((complete and sign the application for enrollment,)) list((ing)) those family members to be enrolled and supply((ing)) such other information as required by the ((plan)) HCA.

(a) Documentation will be required, showing the amount and sources of ((applicants') applicant's income for the most recent complete calendar month as of the date of application. Applicants will also be required to submit a signed copy of their most recent federal income tax form. Income documentation shall be required for all ((income-earning)) family members, including those not applying for enrollment, except for family members who reside in another household and whose income is not available to the family seeking enrollment, and dependent children.

(b) Documentation of the applicant's name and physical residence shall also be required,((displaying the applicant's name and address.))

(c) The ((plan)) HCA may request additional information from applicants for purposes of establishing or verifying eligibility, including Medicaid eligibility in chapter 74.09 RCW, premium responsibility or managed health care system selection.

(d) Submission of incomplete or inaccurate information may delay or prevent an applicant's enrollment in the ((plan)) BHP. Intentional submission of false information may result in disenrollment of the applicant and all enrolled family members, retroactive to the date upon which coverage began.

(3) Each family applying for enrollment must designate a ((participating)) managed health care system from which all enrolled family members will receive covered services. All applicants from the same family must receive covered services from the same managed health care system (except in cases where a subscriber, who is paying child support for his/her dependents, lives in another covered services area). No applicant will be enrolled for whom designation of a ((participating)) managed health care system has not been made as part of the application for enrollment. The adminis-

trator will establish procedures for the selection of managed health care systems, which will include conditions under which an enrollee may change from one managed health care system to another. Such procedures will allow enrollees to change from one managed health care system to another during open enrollment, or otherwise upon showing of good cause for the transfer.

(4) Except as provided in WAC 55-01-040~~((2))~~ (3), applications for enrollment will be reviewed by the ~~((plan))~~ HCA within thirty days of receipt and those applicants satisfying the eligibility criteria and who have provided all required information, documentation and premium payments will be notified of their effective date of enrollment.

(5) Eligible applicants will be enrolled in the ~~((plan))~~ BHP in the order in which their completed applications, including all required documentation, have been received by the ~~((plan))~~ HCA, provided that the applicant also remits full payment of the first premium bill to the ~~((plan))~~ HCA by the due date specified by the ~~((plan))~~ HCA.

(6) Not all family members are required to apply for enrollment in the ~~((plan))~~ BHP; however, any family member for whom application for enrollment is not made at the same time that other family members apply may not subsequently enroll as a family dependent until the next open enrollment period available to that family member, unless that family member loses other health coverage. Eligible newborn and newly adopted children may be enrolled effective from the date of birth or physical placement with the adoptive parents for adoption, provided that application for enrollment is submitted to the ~~((plan))~~ HCA within sixty days of the date of birth or such placement for adoption. A newly acquired spouse of an enrollee may apply for enrollment within thirty days of the date of marriage and, if found eligible by the ~~((plan))~~ HCA, will be enrolled on the first of a month following completion of the enrollment process by the ~~((plan))~~ HCA, provided that the addition of the spouse does not otherwise render the family ineligible for coverage by the ~~((plan))~~ HCA.

(7) ~~((Any e))~~ Enrollees who disenroll~~((s))~~ from the ~~((plan for reasons other than ((a) ineligibility due to an increase in gross family income or (b)))~~ coverage by another health care benefits program may not reenroll in the plan for a period of twelve months from the effective date of disenrollment. ~~((An enrollee who disenrolls because of ineligibility due to an increase in gross family income may reenroll in the event that gross family income subsequently falls to a level which qualifies the enrollee for eligibility.))~~ An enrollee who disenrolls because of coverage by another health care benefits program may reenroll in the event that the enrollee becomes ineligible for such other coverage, provided that the enrollee has been continuously covered since the date of disenrollment from the plan, and provides documentation of such continuous coverage to the plan. Before any person shall be reenrolled in the plan, that person must)) BHP due to loss of eligibility may re-enroll provided they complete a new application for enrollment and ~~((must be))~~ are determined by the ~~((plan))~~ HCA to be otherwise eligible for enrollment as of the date of application. Enrollees who are disenrolled from BHP in accordance with WAC 55-01-060(2), except for loss of eligibility, and who do not maintain continuous coverage may not re-enroll for a period of twelve months from the effective date of disenrollment.

Continuous coverage will be defined as coverage with no lapse greater than 90 days.

(8) The ~~((plan))~~ HCA may require any enrollee or applicant for enrollment in the ~~((plan))~~ BHP who appears to meet eligibility requirements for medical care under chapter 74.09 RCW to complete the eligibility determination process under chapter 74.09 RCW prior to enrollment or continued participation in the ~~((plan))~~ BHP.

(9) Once every six months, the ~~((plan))~~ HCA will request verification of information from enrollees ("recertification"), which may include a request to complete a new application form and submit required documentation. For good cause, the HCA may recertify on a more frequent basis. At recertification, enrollees will be required to report their gross family income for the ~~((most recent complete))~~ preceding calendar month, ~~((as of the recertification date specified by the plan, and to provide the same documentation of such income as required of applicants. ((The plan may request information more frequently from an enrollee for the purpose of verifying eligibility if the plan has good cause to believe that the enrollee's income, residence, family size or other eligibility criteria may have changed since the date on which information was last received by the plan. Enrollees shall be given at least twenty days from the date of any such information request to respond to the request. Failure to respond within the time designated in any information request shall result in a second request from the plan.))~~ Failure to respond within the time designated ~~((in any second request for information))~~ may result in disenrollment of the enrollee. Each enrollee is responsible for notifying the ~~((plan))~~ HCA within thirty days of any changes which could affect the enrollee's eligibility or premium responsibility. If, as a result of the eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee failed to inform the HCA of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the poverty level.

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

AMENDATORY SECTION (Amending WSR 92-14-097, filed 6/30/92, effective 7/31/92)

WAC 55-01-060 Disenrollment from the ~~((plan))~~ BHP. (1) An enrollee may disenroll effective the first day of any month by giving the ~~((plan))~~ HCA at least ten days prior written notice of the intention to disenroll. Reenrollment in the ~~((plan))~~ BHP shall be subject to the provisions of WAC 55-01-050(7). The administrator shall also establish procedures for notice by an enrollee of a disenrollment decision, including the date upon which disenrollment shall become effective. Nonpayment of premium by an enrollee or financial sponsor, including employer group, shall be considered an indication of the enrollee's or group's intention to disenroll from the ~~((plan))~~ BHP.

(2) The ~~((plan))~~ HCA may disenroll any enrollee from the ~~((plan))~~ BHP for good cause, which shall include: (a) Failure to meet the eligibility requirements set forth in WAC

55-01-040; ~~((loss of eligibility;))~~ (b) nonpayment of premium; repeated failure to pay copayments in full on a timely basis; ~~((failure to provide eligibility information necessary to determine whether the enrollee may be eligible for medical care under chapter 74.09 RCW within thirty days of the date of request by the plan; failure to apply when such application is required by the plan to the department of social and health services for determination of eligibility for medical care under chapter 74.09 RCW within thirty days of the date of request by the plan;))~~ (d) knowingly providing false information; (e) fraud or abuse ~~((including but not limited to serious misconduct));~~ (f) intentional misconduct; and (g) refusal to accept or follow procedures or medical treatment determined by a ~~((participating provider))~~ MHCS to be essential to the health of the enrollee, where the managed health care system demonstrates to the satisfaction of the ~~((plan))~~ HCA that no professionally acceptable alternative form of treatment is available from the managed health care system, and the enrollee has been so advised by the managed health care system. The ~~((plan))~~ HCA shall provide the enrollee or legal guardian/parent of a child with advance written notice of its intent to disenroll the enrollee. Such notice shall specify an effective date of disenrollment, which shall be at least ten days from the date of the notice, and shall describe the procedures for disenrollment, including the enrollee's right to appeal the disenrollment decision as set forth in WAC 55-01-070. Prior to the effective date specified, if the enrollee submits an ~~((grievance))~~ appeal to the ~~((plan))~~ HCA contesting the disenrollment decision, as provided in WAC 55-01-070(3), disenrollment shall not become effective until the date, if any, established as a result of the ~~((plan))~~ HCA's ~~((grievance))~~ appeal procedure, provided that the enrollee otherwise remains eligible and continues to make all premium payments when due; and further provided that the enrollee does not pose a threat of nonconsensual violent, aggressive or sexually aggressive behavior, assault or battery or purposeful damage to or theft of managed health care system property, or the property of staff or providers, patients or visitors while on the property of the managed health care system or one of its participating providers.

(3) Any ~~((applicant for enrollment))~~ enrollee ~~((in the plan))~~ who ~~((knowingly))~~ provides false information to the ~~((plan))~~ HCA or to a ~~((participating))~~ managed health care system may ~~((be disenrolled by the plan and may))~~ be held financially responsible for any covered services obtained ~~((from))~~ through the ~~((plan))~~ BHP. The administrator may apply other available remedies as well.

AMENDATORY SECTION (Amending Order 88-001, filed 12/2/88)

WAC 55-01-070 ((Hearings and grievances. The plan will develop procedures for the expeditious resolution of enrollees' grievances, and will require participating managed health care systems to do the same.

(1) If an enrollee has an grievance pertaining to a managed health care system, the enrollee shall exhaust the managed health care system's grievance procedure prior to requesting consideration of the grievance by the plan. The managed health care system's grievance procedure shall provide for expeditious resolution by managed health care

system personnel with authority to require corrective action. There shall be a written reply from the managed health care system stating either the decision and its basis, or the reasons for failure to reach a decision, within thirty days of receipt of the written grievance. An enrollee has the right to request consideration of the grievance by the administrator if the final decision is adverse or if the written reply is not received within thirty days from the date the managed health care system received the written grievance.

(2) If an enrollee has a grievance pertaining to actions of the plan, the enrollee may submit the grievance to the plan for resolution by the plan's grievance procedure. A written description of the plan's grievance procedure will be provided to the enrollee upon enrollment, or at any time upon request. The plan's grievance procedure shall provide for resolution of the grievance within thirty days of receipt of complete information describing the grievance and its basis.

(3) An enrollee who is involuntarily disenrolled by the plan may contest the disenrollment by submitting a grievance to the plan, within ten days of the notice of disenrollment, for resolution by the plan's grievance procedure. The plan shall issue and mail a written decision within thirty days of receiving the grievance.

(4) An individual whose application for enrollment in the plan is denied may contest the denial of enrollment by submitting a grievance to the plan, within ten days of the notice by the plan of such denial, for resolution by the plan's grievance procedure. The plan shall issue and mail a written decision within thirty days of receiving the grievance.

(5) If the plan's decision resulting from its grievance procedure is adverse to an enrollee or applicant, he or she may, within fifteen days of receiving notice of the grievance decision, request a hearing under chapters 34.04 and 34.12 RCW in order to contest the plan's decision.) Appeals and Mediation of grievances. (1) The following decisions by the BHP may be appealed pursuant to this section:

(a) A determination that an applicant for enrollment as a subsidized enrollee is ineligible pursuant to WAC 55-01-040;

(b) A decision to disenroll an enrollee pursuant to WAC 55-01-060.

(2) Appeals under subsection (1) shall be conducted as brief adjudicative proceedings pursuant to RCW 34.05.482 through 34.05.494 and WAC 182-16-060.

(3) Disputes arising between enrollees and the managed health care system in which they are enrolled are considered to be contractual disputes between those parties. The HCA offers a mediation service aimed at resolving those disputes as quickly, efficiently and fairly as possible. Both enrollees and managed health care systems are expected, as a condition of participation in the BHP, to participate fully and cooperatively in this mediation process once invoked by either party to such dispute. In the event the dispute cannot be resolved by mediation, and both enrollee and the managed health care system agree, the HCA will designate a person to act as binding arbitrator of the dispute.

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.

WSR 94-14-020
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 94-55—Filed June 24, 1994, 4:44 p.m., effective June 27, 1994, 4:00 a.m.]

Date of Adoption: June 24, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-33-03000H; and 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: June 27, 1994, 4:00 a.m.

June 24, 1994

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-33-03000I 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 in this section:

FISHING PERIODS

(1) The Camas-Washougal Reef Area is open: 4:00 a.m. June 27 to noon July 1, 1994.

GEAR

(2) 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

(3) 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.

REPEALER

The following section of the Washington Administrative Code is repealed effective 4:00 a.m. June 27, 1994:

WAC 220-33-03000H Commercial shad—
Columbia River.

WSR 94-14-027
EMERGENCY RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 94-01—Filed June 28, 1994, 10:47 a.m.]

Date of Adoption: June 28, 1994.

Purpose: Chapter 296-306 WAC, Safety standards for agriculture, state-initiated emergency rules are adopted to provide agriculture employees with protection at least as effective as that provided employees in other industries covered by chapter 296-24 WAC, General safety and health standards. This emergency adoption extends a previous emergency adoption of these rules filed on February 28, 1994. The initial adoption of these emergency rules was a result of testimony received from the November and December 1993 public hearings and written comments received during the extended post hearing comment period. The emergency adoption allowed industry and Department of Labor and Industries the opportunity to identify and develop vertical rules for application to the agriculture industry. This emergency adoption will allow the department time to propose and adopt permanent rules relating to chapter 296-24 WAC, Part C, Machinery and Machine Guarding, and Part L, Electrical. The department has initiated the Administrative Procedure Act process to propose and adopt permanent rules. A CR-102, proposed rule making package was filed with the code reviser on June 1, 1994. Public hearings are scheduled for July 12 and 13, 1994. Adoption is scheduled for September 1, 1994. The emergency rules include a September 1, 1994, effective date for the application of chapter 296-24 WAC, Part C, Machinery and Machine Guarding, and Part L, Electrical, to the agriculture industry. The emergency rules also incorporate parts of Oregon's machine guarding and electrical rules. The state has included administrative housekeeping corrections in the emergency rule. The housekeeping changes will not add or detract from the requirements of the standard. Details of specific emergency rule amendments and new sections: WAC 296-306-061, amends effective date to September 1, 1994, and adds electrical protection "at least as effective as" statement; WAC 296-306-145, amends effective date to September 1, 1994, and adds machine guarding protection "at least as effective as" statement; WAC 296-306-14501, this new section provides agricultural electrical applications; WAC 296-306-14503, this new section provides electrical definitions applicable to agriculture; WAC 296-306-14505, this new section defines hazards and use of temporary wiring in agricultural applications; WAC 296-306-14507, this new section defines electrical protection requirements for agricultural employees; WAC 296-306-14509, this new section defines electrical installation, arrangement and maintenance requirements for agriculture; WAC 296-306-14511, this new section defines electrical overhead clearances and high voltage in agriculture, WAC 296-306-165, this amendment adds a definition for "point of operation," corrects a reference to gender, adds a new Table K-1 and a note reference to the table, and adds a new subsection (15) and subdivisions (a) and (b) which add miscellaneous guarding requirements for rip saws, rotary mowers, ceiling fans, etc. New subsection (16) and subdivisions (a) through (d) add machine control requirements for location, identification, operation, and guarding; WAC 296-306-170, this amendment

adds new subsection (5)(b)(iii) to include guarding requirements for augers that bridge over; WAC 296-306-175, this amendment includes the addition of new subsection (8) and subdivisions (a) and (b) which address clutches, clearances and stopping means, and administrative housekeeping corrections; and WAC 296-306-180, this amendment includes the addition of new subsection (5), subdivision (a), items (i) through (iii), and subdivision (b), items (i) through (iii) addressing electrical disconnect means and protection devices, adds new point of operation Table K-2, and administrative housekeeping corrections.

Citation of Existing Rules Affected by this Order: Amending WAC 296-306-061 Machinery and machine guarding, 296-306-145 Electrical, 296-306-165 General requirements for all agriculture equipment, 296-306-170 Auger conveying equipment, 296-306-175 Farm field equipment guarding, and 296-306-180 Farmstead equipment.

Statutory Authority for Adoption: Chapter 49.17 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These state-initiated emergency rules are being filed to extend a previous emergency adoption filed on February 28, 1994, in order to delay the effective date of previously adopted rules on machine guarding and electrical hazards in the agriculture.

Rules which were adopted and became effective February 1, 1994, incorporated by reference into chapter 296-306 WAC, the requirements of chapter 296-24 WAC, Part C, Machinery and Machine Guarding, and Part L, Electrical.

The initial adoption of these emergency rules was a result of testimony received from the November and December 1993 public hearings which produced testimony indicating more time was needed for machine guarding and electrical requirements relating to the agricultural industry. Due to their complexity, many employers testified that application of chapter 296-24 WAC, Part C and Part L might be very burdensome and have adverse economic impacts on agricultural employers.

The emergency rules reestablish the effective date for incorporation by reference, of chapter 296-24 WAC, Part C and Part L to September 1, 1994, and provide interim protection for workers based on Oregon's agriculture standards. This action is being taken with the advice and consent of labor and management agricultural industry representatives.

These rules will provide interim protection for agriculture employees until changes to chapter 296-306 WAC are proposed and adopted and/or; chapter 296-24 WAC, Part C and Part L become effective.

One or both or a combination of the above shall become effective September 1, 1994.

The initial emergency adoption allowed industry and the Department of Labor and Industries the opportunity to identify and develop vertical rules for application to the agriculture industry. This emergency adoption will allow the

department time to propose and adopt the rules industry and the department have developed.

The department has initiated the Administrative Procedure Act process to propose and adopt permanent rules. A CR-102, proposed rule making package was filed with the code reviser on June 1, 1994. Public hearings are scheduled for July 12 and 13, 1994. Adoption of the permanent rules is scheduled for September 1, 1994. These emergency rules will be in effect until the proposed rules are adopted and become effective by the September 1, 1994, date.

Effective Date of Rule: Immediately.

June 28, 1994
Mark O. Brown
Director

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-061 Machinery and machine guarding. Chapter 296-24 WAC, Part C shall apply to agriculture equipment effective (~~February~~) September 1, 1994. Note: The delayed implementation date is to provide the opportunity for the department, agriculture industry, and farmworker advocates to develop agriculture specific machinery and machine guarding requirements for equipment that is unique to agriculture, (~~which will take precedence over~~) and which will provide protection at least as effective as the requirements of chapter 296-24 WAC, Part C.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-145 Electrical. Chapter 296-24 WAC, Part L shall apply to agriculture industry effective (~~February~~) September 1, 1994. Note: The delayed implementation date is to provide the opportunity for the department, agriculture industry, and farmworker advocates to develop electrical requirements for electrical applications that are unique to agriculture, (~~which will take precedence over~~) and which will provide protection at least as effective as the requirements of chapter 296-24 WAC, Part L.

NEW SECTION

WAC 296-306-14501 Purpose, scope and application. (1) WAC 296-306-14501 through 296-306-14511 prescribe safety standards to provide for protection against hazards incurred with electricity in places of agricultural employment.

Note: The provisions of chapter 296-306 WAC, Part J do not cover:

1. Installations in watercraft, or automotive vehicles.
2. Facilities under the exclusive control of electric utilities (see chapter 296-45 WAC, electrical workers safety rules).
3. Electric welding (see chapter 296-306 WAC, Part I).

(2) Unless otherwise provided in this section all electrical work, installation, and wire capacities shall be in accordance with the National Electrical Code, NFPA 70-1973; ANSI C1-1971, and all other applicable standards administered by the department of labor and industries. Should further information be desired, it is recommended that you contact your local department of labor and industries.

NEW SECTION

WAC 296-306-14503 Definitions. The following definitions apply to this chapter.

(1) "Acceptable."

(a) An installation or equipment is acceptable to the director of labor and industries and approved within the meaning of WAC 296-306-14501 through 296-306-14511.

(b) If it is accepted, or certified, or listed, or labeled, or otherwise determined to be safe by a nationally recognized testing laboratory.

(c) If it is inspected or tested by a federal agency, or by state, municipal, or other local authority responsible for enforcing occupational safety provisions of the National Electrical Code, and found in compliance with the provisions of the National Electrical Code.

(2) "Accepted." An installation is "accepted" if it has been inspected and found by a nationally recognized testing laboratory to conform to specified plans or to procedures of applicable codes.

(3) "Bonding jumper." A reliable conductor to assure the required electrical conductivity between metal parts required to be electrically connected.

(4) "Branch circuits." That portion of a wiring system extending beyond the final overcurrent device protecting the circuit. A device not approved for branch circuit protection, such as thermal cutout or motor overload protective device, is not considered as the overcurrent device protecting the circuit.

(5) "Certified." Equipment is certified if it:

(a) Has been tested and found by a nationally recognized testing laboratory to meet nationally recognized standards or to be safe for use in a specified manner; or

(b) Is of a kind whose production is periodically inspected by a nationally recognized testing laboratory; and

(c) Bears a label, tag, or other record of certification.

(6) "Exposed" (as applied to live parts). A live part that can be inadvertently touched or approached nearer than a safe distance by a person. This term applies to parts not suitably guarded, isolated, or insulated.

(7) "Ground." A conducting connection, whether intentional or accidental, between an electrical circuit or equipment and earth, or to some conducting body which serves in place of the earth.

(8) "Grounded." Connected to earth or to some conducting body which serves in place of the earth. (See NFPA 70 Art.250.)

(9) "Isolated." Not readily accessible to persons unless special means of access are used.

(10) "Labeled." Equipment is "labeled" if there is attached to it a label, symbol, or other identifying mark of a nationally recognized testing laboratory that:

(a) Makes periodic inspections of the production of such equipment; and

(b) Whose labeling indicates compliance with nationally recognized standards or tests to determine safe use in a specified manner.

(11) "Shock hazard." Considered to exist at an accessible part in a circuit between the part and ground, or other accessible parts if the potential is more than 42.4 volts peak and the current through a 1,500 ohm load is more than 5 milliamperes.

(12) "Weatherproof." So constructed or protected that exposure to the weather shall not interfere with successful operation.

NEW SECTION**WAC 296-306-14505 Temporary lighting and wiring.**

(1) Temporary lighting and portable extension lamps:

(a) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb.

Note: Guards are not required when the bulb is deeply recessed in the reflector. (The entire bulb is below the rim and completely surrounded and protected by the reflector.)

(b) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition.

(c) Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension.

(d) Hand lamps of the portable type shall be of molded composition or other approved type. Brass shell, paper lined lamp holders shall not be used. Hand lamps shall be equipped with a handle and a substantial guard over the bulb and attached to the lamp holder or the handle.

(e) Portable extension lamps used where flammable vapors or gases, or combustible dusts, or easily ignitable fibers or flyings are present, shall be specifically approved as complete assemblies for the type of hazard involved.

(2) Temporary wiring:

(a) Working spaces, walkways, and similar locations shall be kept clear of power cords.

(b) All temporary wiring shall be grounded. (See NFPA 70 Art. 250)

(c) All electric equipment used in hazardous locations shall be chosen from among those listed by a nationally recognized testing laboratory, such as Underwriters' Laboratories, Inc., or Factory Mutual Engineering Corp., except custom made components and utilization equipment.

(d) All wiring equipment shall be maintained as vapor, dust, or fiber tight as contemplated by their approvals. There shall be no loose or missing screws, gaskets, threaded connections, or other impairments to this tight condition.

(e) Precautions shall be taken to make any necessary open wiring inaccessible to unauthorized personnel.

NEW SECTION

WAC 296-306-14507 Protective arrangements. (1) Protection of employees:

(a) All exposed live electrical conductors shall be isolated from accidental contact by persons or equipment.

(b) Electrical repairs shall be made only by persons authorized by the employer.

(c) When fuses are installed or removed with one or both terminals energized, special tools insulated for the voltage shall be used.

(d) No employer shall permit an employee to work in such proximity to an electric power circuit that he/she may contact it unless the employee is protected against electric shock.

Note: Protection may be accomplished by deenergizing the circuit and grounding it, by guarding it, by effective insulation, or other means.

(e) In work areas where the exact location of underground electric power lines is unknown, workers using jack-hammers, bars or other hand tools which may contact a line shall be provided with insulated protective gloves.

(f) Before work is begun the employer shall ascertain by inquiry or direct observation, or by instruments, whether any part of an electric power circuit, exposed or concealed, is so located that the performance of the work may bring any person, tool or machine into physical or electrical contact therewith.

(i) The employer shall post and maintain proper warning signs where such a circuit exists.

(ii) The employer shall advise its employees of the location of such lines, the hazards involved and the protective measures to be taken.

(2) Workspace:

(a) Sufficient space shall be provided and maintained in the area of electrical equipment to permit safe operation and maintenance of such equipment.

(i) When parts are exposed, the minimum clearance for the workspace shall not be less than six feet six inches high, nor less than a radius of three feet wide.

(ii) There shall be clearance sufficient to permit at least a ninety inch opening of all doors or hinged panels.

(b) Suitable barriers or other means shall be provided to ensure that workspace for electrical equipment will not be used as a passageway during periods when energized parts of electrical equipment are exposed.

(3) Lockout and tagging of circuits.

(a) Equipment or circuits that are deenergized for cleanup, maintenance, or repair work shall be locked out and tags shall be attached at all points where such equipment or circuits can be energized.

(b) Controls that are to be deactivated during the course of work on energized or deenergized equipment or circuits shall be so tagged or labeled.

(c) Tags shall be placed to identify plainly the equipment or circuits being worked on.

NEW SECTION

WAC 296-306-14509 Equipment installation and maintenance. (1) Flexible cable extension cords:

(a) Extension cords used with portable electric tools and appliances shall be of three-wire type, and fitted with approved grounding-type attachment plug and receptacle providing ground continuity.

Note: This rule does not apply to cords used with portable tools and equipment provided by an approved system of double insulation or its equivalent.

(b) Worn or frayed electric cables shall not be used.

(c) Flexible cables and extension cords shall be protected against accidental damage as may be caused by traffic, sharp corners, or projections and pinching in doors or elsewhere.

(d) Cables passing through work areas shall be covered or elevated to protect them from damage.

(e) Flexible cables and extension cords shall not be fastened with staples, hung from nails or suspended by wire.

(f) Electrical conductors shall be spliced or joined in splicing devices suitable for the use, by brazing, welding or soldering with a fusible metal or alloy.

(i) Soldered splices shall first be so spliced or joined as to be mechanically and electrically secured without solder, and then soldered. (Rosin-core solder should be used, not acid core solder, when joining electrical conductors.)

(ii) All splices and joints and the free ends of conductors shall be covered with an insulation equivalent to that of the conductors or with an insulating device suitable for that purpose.

(iii) Splices for flexible cords must provide the flexibility and usage characteristics as that of the cord being spliced. Such repairs may be made by vulcanized splices or equivalent means such as systems using shrinkable materials.

(2) Attachment plugs and receptacles:

(a) Attachment plugs for use in work areas shall be so constructed that they will endure rough use and be equipped with a suitable cord grip to prevent strain on the terminal screws.

(b) Attachment plugs shall be of approved grounding type.

(c) Receptacles for attachment plugs shall be of approved concealed contact type with a contact for extending ground continuity and shall be so designed and constructed that the plug may be pulled out without leaving any live parts exposed to accidental contact.

(d) Polarized attachment plugs, receptacles and cord connectors shall be wired to maintain continuity.

(e) Polarized attachment plugs, receptacles and cord connectors for plugs and polarized plugs shall have the terminal intended for connection to the grounded (white) conductor identified by a metal coating substantially white in color. If the terminal is not visible, its entrance hole shall be marked with the word "white," or otherwise identified by a white color.

(f) The terminal for the connection of the equipment grounding conductor shall be identified by:

(i) A green colored, not readily removable terminal screw with hexagonal head; or

(ii) A green colored, hexagonal, not readily removable terminal nut; or

(iii) A green colored pressure wire connector.

(iv) If the terminal for the grounding conductor is not visible, the conductor entrance hole shall be marked with the word "green" or otherwise identified by a distinctive green color.

Note: Two-wire attachment plugs, unless of the polarity type, need not have their terminals marked for identification.

(g) Where different voltages, or types of current (A.C. or D.C.) are to be supplied by portable cords, receptacles shall be of such design that attachment plugs used on such circuits are not interchangeable.

(h) Attachment plugs or other connectors supplying equipment at more than 300 volts shall be of the skirted type or otherwise so designed that arcs will be confined.

(3) Cord and plug connected equipment:

(a) The noncurrent-carrying metal parts of portable or plug-connected equipment shall be grounded.

(b) Portable tools and appliances protected by an approved system of double insulation, or its equivalent, need

not be grounded. Where such an approved system is employed, the equipment shall be distinctively marked.

(c) Exposed noncurrent-carrying metal parts of fixed electrical equipment, including motors, frames, electrically driven machinery, etc., shall be grounded.

(d) All shocks received from electrical equipment, no matter how slight, shall be reported immediately to the person in charge or the employer. The equipment causing the shock shall be checked and any necessary corrective action taken without delay.

(4) Grounding and bonding:

(a) Effective grounding. The path from circuits, equipment, structures, and conduit or enclosures to ground shall be permanent and continuous; having ample carrying capacity to conduct safely the currents liable to be imposed on it; and have impedance sufficiently low to limit the potential above ground and to result in the operation of the overcurrent devices in the circuit.

(b) Ground resistance. Driven rod electrodes shall, where practical, have a resistance to ground not to exceed 25 ohms. Where the resistance is not as low as 25 ohms, two electrodes connected in parallel shall be used.

(c) Testing of grounds. Grounding circuits shall be checked to ensure that the circuit between the ground and the grounded power conductor has a resistance which is low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(d) Conductors used for bonding and grounding stationary and moveable equipment shall be of ample size to carry the anticipated current.

(5) Switches and circuit breakers:

(a) Not less than 3' of clear space shall be maintained in front of switch centers or panels at all times.

(b) Live parts of electrical switchboards and panel boards shall be enclosed or screened.

(c) Each disconnecting means for motors and appliances, and each service feeder or branch circuit at the point where it originates, shall be legibly marked to indicate its purpose unless located and arranged so the purpose is evident.

(d) Disconnecting means shall be located or shielded so that employees will not be injured. The use of open knife switches is prohibited.

(e) Boxes for disconnecting means shall be securely and rigidly fastened to the surface upon which they are mounted and fitted with covers.

(f) Boxes for disconnecting means installed in damp or wet locations shall be waterproof to the extent that water does not enter or accumulate.

(6) Identification and load ratings:

(a) Name plates, rating data, and marks of identification on electrical equipment and electrically operated machines shall not be removed, defaced or obliterated.

(b) In existing installations no changes in circuit protection shall be made to increase the load in excess of the load rating of the circuit wiring, as specified in the National Electrical Code, NFPA 70-1973; ANSI C1-1972, Article 310.

(c) Tampering with, bridging, or using oversize fuses is prohibited. If fuses blow repeatedly, such trouble shall be immediately reported to the employer or an authorized electrician.

(d) Attempts to start electric motors that kick out repeatedly are prohibited.

NEW SECTION

WAC 296-306-14511 Proximity to overhead lines.

(1) Clearance or safeguards required:

(a) All exposed overhead conductors shall be isolated from probability of accidental contact by persons or equipment.

(b) Irrigation pipe shall not be stored within one hundred feet of overhead conductors.

(c) Upending irrigation pipe within one hundred feet of overhead conductors is prohibited.

(d) No part of any water or irrigation system, or any other device which discharges a conductive liquid, shall be set up or operated in such a way that the discharge from that system is directed or may come within ten feet of overhead high voltage lines, or may contact any other exposed electrical power conductor.

(e) No employer shall require or permit any employees to enter or to perform any function in proximity to high-voltage lines, unless danger from accidental contact with said high-voltage lines has been effectively guarded against.

Note: Voltage 600V and higher is considered high voltage.

(f) The operation, erection, or transportation of any tools, equipment, or any part thereof capable of movement; the handling, transportation, or storage of any materials; or the moving of any building near high voltage lines is prohibited if at any time it is possible to bring such object within ten feet of high voltage lines.

(g) Except where electrical distribution and transmission lines have been deenergized and visibly grounded at point of work or where insulating barriers, not a part of or an attachment to the equipment or machinery, have been erected to prevent physical contact with the lines, equipment or machines shall be operated near power lines only in accordance with the following:

(i) For lines rated 50 kv. or below, minimum clearance between the lines and any part of the object shall be ten feet;

(ii) For lines rated over 50 kv. minimum clearance between the lines and any part of the object shall be ten feet plus four tenths of an inch for each 1 kv., over 50 kv., or twice the length of the line insulator but never less than ten feet.

(iii) In transit, the clearance shall be a minimum of four feet for voltages less than 50 kv., ten feet for voltages over 50 kv. up to and including 345 kv., and sixteen feet for voltages up to and including 750 kv.

(iv) A person shall be designated to observe clearance and give timely warning for all operations where it is difficult for the operator to maintain the desired clearance by visual means.

(2) Warning sign required:

The employer shall post and maintain in plain view of the operator on each derrick, power-shovel, drilling-rig, hay loader, hay stacker, or similar apparatus, any part of which is capable of vertical, lateral or swinging motion, a durable warning sign legible at twelve feet reading "Unlawful to operate this equipment within ten feet of high-voltage lines."

(3) Notification to power company and responsibility for safeguards. When any operations are to be performed, tools or materials handled, or equipment is to be moved or operated within ten feet of any high voltage line, the person or persons responsible for the work to be done shall promptly notify the operator of the high-voltage line of the work to be performed, and shall be responsible for the completion of the safety measures as required before proceeding with any work which would impair the aforesaid clearance.

Note: The foregoing rules are not intended to apply to the construction, reconstruction, operations and maintenance of overhead electrical conductors (and their supporting structures and associated equipment) by authorized and qualified electrical workers; nor to authorized and qualified employees engaged in the construction, reconstruction, operations and maintenance of overhead electrical circuits or conductors (and their supporting structures and associated equipment) of rail transportation systems, or electrical generating, transmission, distribution, and communication systems.

AMENDATORY SECTION (Amending Order 92-24, filed 3/5/93, effective 6/1/93)

WAC 296-306-165 General requirements for all agricultural equipment. (1) Definitions.

(a) "Agricultural equipment" means equipment used in production or handling of agricultural products.

(b) "Agricultural field equipment" means tractors, self-propelled implements, implements and combinations thereof used in agricultural operations.

(c) "Agricultural tractor" means a two-wheel or four-wheel drive type vehicle, or a track vehicle, of more than twenty net engine horsepower (continuous brake power rating per Society of Automotive Engineers (SAE) J816b - or the power recommended by the manufacturer for satisfactory operation under the manufacturer specified continuous duty conditions), designed to furnish the power to pull, carry, propel, or drive implements that are designed for agriculture. All self-propelled implements are excluded.

(d) "Augers" means screw conveyors and related accessories designed primarily for conveying agricultural materials on farms.

(e) "Constant-running drives" means those drives which continue to rotate when the engine is running. (With all clutches disengaged.)

(f) "Farm field equipment" means tractors or implements, including self-propelled implements, or any combination thereof used in agricultural operations.

(g) "Farmstead equipment" means agricultural equipment normally used in a stationary manner. This includes, but is not limited to, materials handling equipment and accessories for such equipment whether or not the equipment is an integral part of a building.

(h) "Guarding by location" means a component may be considered guarded by location when, because of its location, it does not present a hazard during operation or maintenance. A component seven feet or more above a working surface is considered guarded by location.

(i) "Ground-drive equipment" means equipment using power supplied by its pulled wheels to move gears, chains, sprockets, belts, pulleys, augers, tines, etc.

(j) "Low profile tractor" means a wheel or track equipped vehicle possessing the following characteristics:

(i) The front wheel spacing is equal to the rear wheel spacing, as measured from the centerline of each right wheel to the centerline of the corresponding left wheel.

(ii) The clearance from the bottom of the tractor chassis to the ground does not exceed eighteen inches.

(iii) The highest point of the hood does not exceed sixty inches, and

(iv) The tractor is designed so that the operator straddles the transmission when seated.

(k) A "guard" or "shield" is a barrier which insures that no part of an employee may come into contact with a hazard created by a moving machinery part.

(l) "Point of operation" means the area on a machine where work is actually performed upon the material being processed.

(m) "Power take-off shafts" are the shafts and knuckles between the tractor, or other power source, and the first gear set, pulley, sprocket, or other components on power take-off shaft driven equipment.

(2) Immediate priority shall be given to guarding of power take-off drives on all tractors and equipment. These must be guarded no later than January 1, 1976.

(3) All other power transmission components must be guarded on all equipment manufactured on or after January 1, 1976.

(4) If unguarded power transmission components on older field equipment show evidence that they were once guarded, the guards shall be replaced by January 1, 1976.

(5) The manufacturer's instruction manual, if published by the manufacturer and currently available, shall be the source of information for the safe operation and maintenance of field equipment.

(6) The employer shall establish a written program consisting of an energy control procedure, employee training, and periodic inspections to ensure that before any employee performs any servicing or maintenance on a machine or equipment where the unexpected energizing, start up, or release of stored energy could occur and cause injury, the machine, equipment, system, or process shall be isolated, and rendered inoperative. Whenever major replacement, repair, renovation, relocation, or modification of machines or equipment is performed, and whenever new machines or equipment are installed, energy isolating devices for such machines or equipment shall be designed to accept a lockout device.

(7) Operating instructions. At the time of initial assignment and at least annually thereafter, the employer shall instruct every employee in the safe operation and servicing of all covered equipment with which he/she is or will be involved, including at least the following safe operating practices:

(a) Keep all guards in place when the machine is in operation;

(b) Passengers, other than persons required for instruction or machine operation shall not be permitted to ride on equipment unless a passenger seat or other protective device is provided.

(c) Stop engine, disconnect the power source, and wait for all machine movement to stop before servicing, adjusting, cleaning, or unclogging the equipment, except where the machine must be running to be properly serviced or maintained, in which case the employer shall instruct employees

as to all steps and procedures which are necessary to safely service or maintain the equipment;

(d) Make sure everyone is clear of machinery before starting the engine, engaging power, or operating the machine;

(e) Lock out electrical power before performing maintenance or service on farmstead equipment.

(8) Methods of guarding. Except as otherwise provided in this chapter, each employer shall protect employees from coming into contact with moving machinery parts as follows:

(a) Through the installation and use of a guard or shield or guarding by location;

(b) Whenever a guard or shield or guarding by location is infeasible, by using a guardrail or fence.

(9) Strength and design of guards.

(a) Where guards are used to provide the protection required by this section, they shall be designed and located to prevent inadvertent contact with the hazard being guarded.

Note: Minimum requirements for guards shall correspond to Table K-1.

(b) Unless otherwise specified, each guard and its supports shall be capable of withstanding the force that a two hundred fifty pound individual, leaning on or falling against the guard, would exert upon that guard.

(c) Guards shall be free from burrs, sharp edges, and sharp corners, and shall be securely fastened to the equipment or building.

TABLE K-1

Material	Clearance From Moving Parts at All Points	Largest Mesh or Opening Allowable	Minimum Gauge (U.S. Standard) or Thickness
Woven Wire	(inches) under 2	(inches) 3/8	No. 16 Gauge
	2-4	1/2	No. 16 Gauge
	4-15	2	No. 12 Gauge
Expanded Metal	under 4	1/2	No. 18 Gauge
	4/15	2	No. 13 Gauge
Perforated Metal	under 4	1/2	No. 20 Gauge
	4/15	2	No. 14 Gauge
Sheet Metal	under 15		No. 22 Gauge
Plastic	under 15		Tensile strength of 10,000 lb/in ²

(10) Guarding by railings. Guardrails or fences shall be capable of preventing employees from inadvertently entering the hazardous area.

(11) Servicing and maintenance. Whenever a moving machinery part presents a hazard during servicing or maintenance, the engine shall be stopped, the power source disconnected, and all machine movement stopped before servicing or maintenance is performed, except where the employer can establish that:

(a) The equipment must be running to be properly serviced or maintained;

(b) The equipment cannot be serviced or maintained while a guard or guards are in place; and

(c) The servicing or maintenance is safely performed.

(12) Shields, guards and access doors that will prevent accidental contact with rotating machine parts on constant-

running drives shall be in place when the machine is running. This requirement shall not apply to combines where such guards could create fire hazards.

(13) A guard or shield on stationary equipment shall be provided at the mesh point or pinch point where the chain or belt contacts the sprocket or pulley. Revolving shafts shall be guarded by a standard safeguard unless guarded by location. Shafts that protrude less than one-half the outside diameter of the shaft are exempt from this section.

(14) Projections, such as exposed bolts, keys, or set screws on sprockets, sheaves or pulleys on stationary equipment shall be shielded unless guarded by location.

(15) Miscellaneous general requirements:

(a) Machines which are of a type that will throw stock, material, or objects shall be covered or provided with a device designed and constructed to minimize this action. (Such machines as rip saws, rotary mowers and beaters, rotary tillers are a few in this classification.)

(b) When the periphery of the blades of a fan is less than seven feet above the floor or working level, the blades shall be guarded. The guard shall have openings no larger than one-half inch.

(16) Machine controls.

(a) If the operation of a machine requires the presence of an operator on the machine, a power control device shall be provided on each machine to enable the operator to stop the machine or machine feed without leaving his/her position.

(b) Power control devices whose function is not readily self-evident to a casual observer shall be marked to indicate their function and the machine which they control. The position of ON and OFF shall be indicated.

(c) "Stop" buttons shall be colored red or orange. Each machine shall have one or more stop buttons according to the working position of the operator or operators.

(d) Machine control devices shall be located or guarded to prevent unexpected or accidental movement of the control. Electrical switch "start" buttons shall be recessed.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-170 Auger conveying equipment. (1) Scope. This section applies only to farm augers as defined in WAC 296-306-165 (1)(e).

(2) General specifications.

(a) All shields and guards shall conform to WAC 296-306-165(13).

(b) Power take off shaft guards shall conform to WAC 296-306-165(8).

(3) Specifications.

(a) Each sweep auger shall have its top half shielded by a guard. No opening in such guard shall exceed 4 3/4 inches in length or width.

(b) The exposed auger at the hopper and the intake shall be guarded or otherwise designed to provide a deterrent from accidental contact with the rotating inlet area and extend a minimum of 2 1/2 inches above and below the exposed auger. Openings in the guard, for the free flow of material, shall not exceed 4 3/4 inches in length or width and shall be of sufficient strength to support a concentrated weight of 250 pounds at mid span.

EMERGENCY

(c) The hand raising winch shall be provided with a control which will hold the auger at any angle of inclination, and respond only to handle actuation. It shall not be necessary to disengage such control to lower the auger. The force required on the handle to raise or lower the auger manually shall not exceed 50 pounds.

(d) The wire rope lifting pulleys shall be grooved to fit the wire rope with which they are used.

(e) In order to avoid separation, a positive restraint shall be provided between the auger tube and the under-carriage lifting arm. Stops that restrict the maximum raised angle and minimum lowered angle shall be provided.

(f) Wire ropes (cables) shall be rust resistant and selected for the design load and service intended.

(g) Service and operation instructions provided the equipment operator shall include those basic practices for safe operation and servicing.

(4) All augers shall be covered or guarded when exposed to contact.

(5) Equipment manufactured after October 25, 1976, shall be guarded in compliance with the following specification:

(a) Sweep arm material gathering mechanisms used on the top surface of materials within silo structures shall be guarded. The lower or leading edge of the guard shall be located no more than 12 inches above the material surface and no less than 6 inches in front of the leading edge of the rotating member of the gathering mechanism. The guard shall be parallel to, and extend the fullest practical length of the material gathering mechanism.

(b) Exposed auger flighting on portable grain augers shall be guarded with either grating type guards or solid baffle style covers as follows:

(i) The largest dimensions or openings in grating type guards through which materials are required to flow shall be 4 3/4 inches. The area of each opening shall be no larger than 10 square inches. The opening shall be located no closer to the rotating flighting than 2 1/2 inches.

(ii) Slotted openings in solid baffle style covers shall be no wider than 1 1/2 inches, or closer than 3 1/2 inches to the exposed flighting.

(iii) Openings larger than those specified in (i) and (ii) of this subdivision may be permitted if necessary to permit the free flow of material which has a tendency to bridge over. Such opening shall be no larger than that required for proper functioning of the auger. In any case, the guard shall be designed, arranged or located so that no part of a worker's person or limbs may contact the auger flighting.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-175 Farm field equipment guarding.

(1) Power takeoff guarding.

(a) All power takeoff shafts, including rear, mid- or side-mounted shafts, shall be guarded either by a master shield, as provided in item (1)(b) of this subdivision, or by other protective guarding.

(b) All tractors shall be equipped with an agricultural tractor master shield on the rear power takeoff except where removal of the tractor master shield is permitted by item (1)(c) of this subdivision. The master shield shall have

sufficient strength to prevent permanent deformation of the shield when a 250 pound operator mounts or dismounts the tractor using the shield as a step.

(c) Power takeoff driven equipment shall be guarded to prevent employee contact with positively driven rotating members of the power drive system. Where power takeoff driven equipment is of a design requiring removal of the tractor master shield, the equipment shall also include protection from that portion of the tractor power takeoff shaft which protrudes from the tractor.

(d) Signs shall be placed at prominent locations on tractors and power takeoff driven equipment specifying that power drive system safety shields must be kept in place.

(2) Other power transmission components.

(a) The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets and idlers shall be guarded.

(b) All revolving shafts, including projections such as bolts, keys or set screws, shall be guarded, except smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.

(c) Ground driven components shall be guarded in accordance with items ~~((2)(i)(2)(a)) and (2)(ii)(2)(b))~~ (2)(a) and (b) of this subdivision if any employee may be exposed to them while the drives are in motion.

(3) Functional components, such as snapping or husking rolls, straw spreaders and choppers, cutterbars, flail rotors, rotary beaters, mixing augers, feed rolls, conveying augers, rotary tillers, and similar units which must be exposed for proper function shall be shielded to a degree consistent with the intended function and operator's vision of the component.

(4) Access to moving parts. Where removal of a guard or access door will expose an employee to any component which continues to rotate after the power is disengaged, the employer shall provide, in the immediate area, ~~((the following~~

~~(a))~~ a safety sign warning the employee to:

~~((+))~~ (a) Look and listen for evidence of rotation; and ~~((+))~~ (b) Not remove the guard or access door until all components have stopped; and

~~((+))~~ (c) On equipment manufactured after October 25, 1976, a readily visible or audible warning of rotation.

(5) If the mounting steps or ladder and the handholds of the propelling vehicle are made inaccessible by installation of other equipment, other steps and handholds shall be provided on the equipment.

(6) A slip-resistant means or material shall be provided on the operator's steps and platform to minimize the possibility of feet slipping.

(7) Ground-drive equipment shall be shielded or guarded as specified in WAC 296-306-165(12) if operators are exposed to drives while they are in motion.

(8) Additional requirements:

(a) A clutch or other effective means of stopping shall be used on powered machines not driven by an individual motor.

(b) All friction clutches shall have sufficient clearance and shall be kept adjusted to prevent any drag or creeping when disengaged.

AMENDATORY SECTION (Amending Order 76-28, filed 9/28/76)

WAC 296-306-180 Farmstead equipment. (1) Power takeoff guarding.

(a) All power takeoff shafts, including rear, mid- or side-mounted shafts, shall be guarded either by a master shield as provided in WAC 296-306-175 (1)(b) or other protective guarding.

(b) Power takeoff driven equipment shall be guarded to prevent employee contact with positively driven rotating members of the power drive system. Where power takeoff driven equipment is of a design requiring removal of the tractor master shield, the equipment shall also include protection from that portion of the tractor power takeoff shaft which protrudes from the tractor.

(c) Signs shall be placed at prominent locations on power takeoff driven equipment specifying that power drive system safety shields must be kept in place.

(2) Other power transmission components.

(a) The mesh or nip-points of all power driven gears, belts, chains, sheaves, pulleys, sprockets and idlers shall be guarded.

(b) All revolving shafts, including projections such as bolts, keys, or set screws, shall be guarded, with the exception of:

(i) Smooth shafts and shaft ends (without any projecting bolts, keys, or set screws), revolving at less than 10 rpm, on feed handling equipment used on the top surface of materials in bulk storage facilities; and

(ii) Smooth shaft ends protruding less than one-half the outside diameter of the shaft and its locking means.

(3) Functional components, such as snapping or husking rolls, straw spreaders and choppers, cutterbars, flail rotors, rotary beaters, mixing augers, feed rolls, conveying augers, rotary tillers and similar units, which must be exposed for proper function shall be shielded to a degree consistent with the intended function and operator's vision of the component.

(4) Access to moving parts.

(a) Guards, shields and access doors shall be in place when the equipment is in operation.

(b) Where removal of a guard or access door will expose an employee to any component which continues to rotate after the power is disengaged, the employer shall provide, in the immediate area, ~~((the following~~

~~((A)))~~ a safety sign warning the employee to:

~~((A)))~~ (i) Look and listen for evidence of rotation; and

~~((B)))~~ (ii) Not remove the guard or access door until all components have stopped; and

~~((C)))~~ (iii) On equipment manufactured after October 25, 1976, a readily visible or audible warning of rotation.

(5) Electrical disconnect means:

(a) Application of electrical power from a location not under the immediate and exclusive control of the employee or employees maintaining or servicing equipment shall be prevented by:

(i) Providing an exclusive, positive locking means on the main switch which can be operated only by the employee performing the maintenance or servicing; or

(ii) In the case of material handling equipment located in a bulk storage structure, by physically locating on the

equipment an electrical or mechanical means to disconnect the power.

Minimum lock out means shall meet the requirements of WAC 296-306-14507(3).

(b) All circuit protection devices, including those which are an integral part of a motor, shall be of the manual reset type, except where:

(i) The employer can establish that because of the nature of the operation, distances involved and the amount of time normally spent by employees in the area of the affected equipment, use of the manual reset device would be infeasible;

(ii) There is an electrical disconnect switch available to the employee within fifteen feet of the equipment upon which maintenance or service is being performed; and

(iii) A sign is prominently posted near each hazardous component which warns the employee that unless the electrical disconnect switch is utilized, the motor could automatically reset while the employee is working on the hazardous component.

(6) Additional guarding requirements:

(a) Carton or bag stitching machines shall be properly safeguarded to prevent persons from coming in contact with the stitching head and other pinch or nip points.

(b) The point of operation of all machines shall be guarded. The guard shall be so designed and constructed as to prevent the operator from having any part of his/her body in the danger zone during the operating cycle.

Note: Table K-2 prescribes the distances that point-of-operation guards shall be positioned from the danger line with relation to the size of the opening.

TABLE K-2

<u>Guarding Line or Distance of opening from point of operation hazard (inches)</u>	<u>Maximum width of opening (inches)</u>
1/2 to 1 1/2	1/4
1 1/2 to 2 1/2	3/8
2 1/2 to 3 1/2	1/2
3 1/2 to 5 1/2	5/8
5 1/2 to 6 1/2	3/4
6 1/2 to 7 1/2	7/8
7 1/2 to 12 1/2	1 1/4
12 1/2 to 15 1/2	1 1/2
15 1/2 to 17 1/2	1 7/8
17 1/2 to 31 1/2	2 1/8

**WSR 94-14-036
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-57—Filed June 28, 1994, 5:00 p.m.]

Date of Adoption: June 28, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500H; and 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: Harvestable numbers of salmon are available for a subsistence fishery. This conforms state rules with Yakama Nation regulations.

Effective Date of Rule: Immediately.

June 28, 1994
Judith Freeman
Deputy
for Robert Turner
Director

Reasons for this Finding: To implement chapters 139, 141, 275, and 305, Laws of 1994, applicable to regulation of traffic by July 1, 1994, as required therein. Without adoption of this emergency rule, anticipated backlog of DUI cases will occur in district courts. Emergency adoption is necessary for swift administration of justice by local jurisdictions.

Effective Date of Rule: July 1, 1994.

June 29, 1994
John Swannack
Deputy Director

NEW SECTION

WAC 220-32-05500I Columbia River tributaries—Subsistence. Notwithstanding the provisions of WAC 220-32-055, effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River, the Klickitat River, Icicle Creek, the Wind River, the Little White Salmon River (Drano Lake) or the Columbia River in the vicinity of Ringold Hatchery, except under the following provisions:

(1) The Klickitat River from the Swinging Bridge (RM 1.5) to Fishway No. 5 (RM 2.2) is open noon Wednesday to 6:00 p.m. Saturday of each week from June 22, 1994 until further notice.

(2) Columbia River from a marker approximately 1/2 mile upstream of Spring Creek (Hatchery rearing pond outlet) downstream to a marker approximately 1.4 mile downstream of Ringold wastewater outlet is open 6:00 a.m. Monday to 6:00 p.m. Saturday of each week effective immediately through July 30, 1994.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500H Columbia River tributaries—Subsistence. (94-43)

**WSR 94-14-040
EMERGENCY RULES
DEPARTMENT OF LICENSING**

[Filed June 29, 1994, 9:12 a.m., effective July 1, 1994]

Date of Adoption: June 29, 1994.

Purpose: Amend chapter 308-330 WAC, match traffic ordinance implementing laws enacted in 1994 legislative session.

Citation of Existing Rules Affected by this Order: Amending WAC 308-330-300, 308-330-307, 308-330-320, 308-330-400, and 308-330-425.

Statutory Authority for Adoption: RCW 46.90.010.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

[AMENDATORY SECTION] (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-300 RCW sections adopted—Certificates of ownership and registrations. The following sections of the Revised Code of Washington (RCW) pertaining to vehicle certificates of ownership and registrations as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.12.070, 46.12.080, 46.12.101, 46.12.102, 46.12.250, 46.12.260, 46.12.270, 46.12.300, 46.12.310, 46.12.320, 46.12.330, 46.12.340, 46.12.350, and 46.12.380.

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

[AMENDATORY SECTION] (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-307 RCW sections adopted—Driver licenses—Identicards. The following sections of the Revised Code of Washington (RCW) pertaining to driver licenses and identification cards as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.20.021, 46.20.022, 46.20.025, 46.20.027, 46.20.031, 46.20.041, 46.20.045, 46.20.190, 46.20.220, 46.20.308, 46.20.336, 46.20.338, 46.20.342, 46.20.343, 46.20.344, 46.20.391, 46.20.394, 46.20.410, 46.20.420, 46.20.430, 46.20.435, 46.20.500, 46.20.510, 46.20.550, ~~((and))~~ 46.20.750, and 1994 C 275 S 10.

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

[AMENDATORY SECTION] (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-320 RCW sections adopted—Size, weight, load. The following sections of the Revised Code of Washington (RCW) pertaining to vehicle size, weight, and load as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.44.010, 46.44.015, 46.44.020, 46.44.030, 46.44.034, 46.44.036, 46.44.037, 46.44.041, 46.44.042, 46.44.047, 46.44.050, 46.44.060, 46.44.070, 46.44.090, 46.44.091, 46.44.092, 46.44.093, 46.44.095, 46.44.096, 46.44.105, 46.44.120, 46.44.130, 46.44.140, 46.44.170, 46.44.173, 46.44.175, ~~((and))~~ 46.44.180, and 1994 C 305 S 1.

EMERGENCY

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

AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-400 Provisions of chapter refer to vehicles upon highway—Exception. The provisions of this chapter relating to the operation of vehicles refer exclusively to the operation of vehicles upon highways except:

- (1) Where a different place is specifically referred to in a given section;
- (2) The provisions of RCW 46.52.010, 46.52.020, 46.52.030, 46.52.070, 46.52.080, 46.52.090, and 46.61.500 through 46.61.~~((515))~~508 and 1994 C 275 S 10 shall apply upon highways and elsewhere throughout the jurisdiction of the local authority.

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

AMENDATORY SECTION (Amending WSR 94-01-082, filed 12/13/93)]

WAC 308-330-425 RCW sections adopted—Reckless driving, vehicular homicide and assault. The following sections of the Revised Code of Washington (RCW) pertaining to reckless driving, driving while under the influence of intoxicating liquor or any drug, vehicular homicide and assault as now or hereafter amended are hereby adopted by reference as a part of this chapter in all respects as though such sections were set forth herein in full: RCW 46.61.500, 46.61.502, 46.61.504, 46.61.506, ~~((46.61.515;))~~ 1994 C 139 S 1, 1994 C 141 S 1, 1994 C 275 S 4, 5, 6, 7, 11 and 12, 46.61.517, 46.61.519, 46.61.5191, 46.61.5195, 46.61.525, 46.61.530, 46.61.535, and 46.61.540.

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

**WSR 94-14-042
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-58—Filed June 29, 1994, 9:35 a.m., effective June 29, 1994, 11:59 p.m.]

Date of Adoption: June 28, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100R; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The harvestable surplus of sea cucumbers in Districts 1, 2, and 4 have been harvested.

Eagle Harbor and Sinclair Inlet are closed due to contamination and for the economic well being of the industry.

Effective Date of Rule: June 29, 1994, 11:59 p.m.

June 28, 1994

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-52-07100S Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective 11:59 p.m. June 29, 1994 until further notice it is unlawful to fish for or possess sea cucumbers taken for commercial use from all state waters except during the times and in the areas as provided for in this section:

(1) Sea cucumber harvest using the shellfish diver gear is allowed in Sea Cucumber District 3, Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) The following waters are closed to the harvest of sea cucumbers at all times:

(a) Eagle Harbor - All waters westerly of a line projected northerly from Wing Point to Eagle Harbor Cresote Light number one and then due west to the shoreline of Bainbridge Island.

(b) Hale Passage - Those waters within a line projected northerly from Point Migley to Sandy Point and a line projected from Point Francis through the marker north of Inati Bay to landfall on Lummi Island.

(c) Sinclair Inlet - Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26C west of a line projected southerly from the easternmost point of Turner to landfall below the Veterans Home in Annapolis. The remainder of Area 26C is open to harvest.

REPEALER

The following section of the Washington Administrative Code is repealed effective 11:59 p.m., June 29, 1994:

WAC 220-52-07100R Sea cucumbers. (94-54)

**WSR 94-14-052
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3749—Filed June 30, 1994, 11:27 a.m., effective July 1, 1994, 12:01 a.m.]

Date of Adoption: June 30, 1994.

Purpose: Implements the provisions of Omnibus Budget Reconciliation Act of 1993 (OBRA) and state law HB 2492. OBRA establishes provisions for the state agency to establish procedures for recovering cost of institutional, medical, and related care from a medical assistance client's estate. Mandatory for the state receiving federal financial participation. Amended to lower the age of client affected from sixty-five to fifty-five years of age. "Undue hardship"

EMERGENCY

provisions are established. Effective date of change is set by law to be July 1, 1994.

Citation of Existing Rules Affected by this Order:
Amending WAC 388-527-2710 Recovery from estates.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: OBRA 1993 and HB 2492.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: OBRA 93 required states to pass legislation to have consistency in the state recovery provisions. HB 2510 was passed to accomplish this. However, both state and federal laws have a provision regarding "undue hardship." This provision requires the secretary to approve state hardship requirements. This approval has not yet been received; however, the law must be effective July 1, 1994, to receive federal financial participation.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 30, 1994

Dewey Brock, Chief

Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-527-2710 Recovery from estates. (1) The department may file a lien against a client's property at any time pursuant to a judgment of a court on account of medical assistance incorrectly paid on behalf of a client.

(2) The department shall continue to seek adjustment or recovery of medical assistance which is recoverable before July 1, 1994 under subsection (3) and (4) of this section.

(3) For a medical assistance client whose death occurred on or prior to June 30, 1994, the department shall recover the cost of public assistance benefits provided under chapter 74.09 RCW provided to a client, who was sixty-five years of age or older, upon the client's death, except:

(a) When there is a surviving spouse; or

(b) When there is a surviving child:

(i) Twenty years of age and under; or

(ii) Blind or disabled as defined under chapter 388-511

WAC; or

(c) For family heirlooms, collectibles, antiques, papers, jewelry, photos, or other personal effects that have been held in the possession of the deceased client to which a surviving child may otherwise be entitled not to exceed a total fair market value of two thousand dollars.

~~((2))~~ (4) For a medical assistance client whose death occurs on or after July 1, 1994, the department shall (~~assert and enforce~~) recover from the client's estate the cost of nursing facility services, home and community-based services and related hospital, prescription drug and Medicare cost sharing services, paid on behalf of a client, who was fifty-five years of age or older when the client received the services.

(5) The department shall seek adjustment or recovery of a claim against the estate of the deceased client for the debt in subsection ~~((1))~~ (3) and (4) of this section, in accordance with chapter 11.40 RCW.

~~((3))~~ (6) The department shall:

~~(a) File a lien against any real property which ((was in the name of the client just before the)) is included in a deceased client's ((death-~~

~~(a) The department shall)) estate;~~

(b) File the lien with the county auditor of the county in which the property is located; (~~and~~

~~(b) The department shall deem))~~

(c) Consider the lien effective as of the date of the client's death; and

~~((e) The department's recovery of property shall be))~~

(d) Recover the cost of medical assistance as described in subsection (3) and (4) of this section from the estate or upon the next sale or transfer of the property.

~~((4) When a surviving spouse or child, as defined under subsection (1)(b) of this section, is discovered or contacts the department before recovery, the department shall release the lien-~~

~~(5) The term "child" shall include both natural and adopted children-~~

~~(6))~~ (7) The department shall:

(a) Seek adjustment or recovery from a person's estate where there is a surviving spouse; and

(b) Collect against the lien upon the death of the surviving spouse or upon the next sale or transfer of the property.

(8) The department shall not seek adjustment or recovery when there is a surviving child who is:

(a) Twenty years of age and under; or

(b) Blind or disabled as defined under chapter 388-511

WAC.

(9) The department shall waive recovery of medical assistance costs described in subsection (4) of this section when such recovery would work an undue hardship as described in subsection (12) of this section.

(10) The department may undertake partial recovery to avoid an undue hardship situation as described in subsection (12) of this section.

(11) The department may consider, in situations where recovery is not waived because of undue hardship and the heirs of the estate from which recovery is sought wish to satisfy the recovery claim without selling a nonliquid asset, a reasonable payment schedule, subject to reasonable interest.

(12) For the purpose of this section:

(a) The value of the estate shall be the total estate value less any liabilities on any real property outstanding at the time of the client's death. "Estate" includes all real and personal property and other assets as provided under Washington state probate law.

(b) "Undue hardship" exists when:

(i) The estate subject to adjustment or recovery is the sole income-producing asset of the survivors and income is limited;

(ii) Recovery would result in the impoverishment of the survivors;

(iii) The estate subject to adjustment or recovery consists of a homestead as defined in chapter 6.13 RCW and the sole occupants or survivors have limited income and resources; or

(iv) The department determines the adjustment or recovery of the claim is not cost effective.

(c) "Undue hardship" does not exist when:

(i) The adjustment or recovery of the client's cost of medical assistance as described in subsection (4) of this section would merely cause the client's family members inconvenience or restrict the families lifestyle; or

(ii) The survivor divests assets in order to qualify under the hardship provision.

WSR 94-14-053
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3748—Filed June 30, 1994, 11:29 a.m., effective July 1, 1994,
 12:01 a.m.]

Date of Adoption: June 30, 1994.

Purpose: Increase standards to 200% of the federal poverty level (FPL) for children under nineteen years of age.

Citation of Existing Rules Affected by this Order: Amending WAC 388-503-0310 Categorically needy eligible persons, 388-509-0910 Medicaid for children—Eligible to nineteen years of age, 388-509-0920 Children's health program, and 388-509-0960 Children's income standards.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Comply with state plan/budget.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 30, 1994

Dewey Brock, Chief
 Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-503-0310 Categorically needy eligible persons. The department shall determine eligible for categorically needy medical assistance a client who is:

(1) Receiving or eligible to receive a cash assistance payment under:

- (a) Aid to families with dependent children (AFDC); or
- (b) Supplemental security income (SSI) including a grandfathered person and a person with an essential spouse; or

(c) State supplemental payment (SSP) to a person as assistance based on need in supplementation of SSI benefits. This payment includes mandatory state supplement or optional state supplement as defined under WAC 388-500-0005. The ineligible spouse of an SSI beneficiary receiving a state supplement payment for the ineligible spouse is not eligible for categorically needy medical assistance.

(2) A person twenty years of age or younger who meets the:

- (a) One-person AFDC financial requirements and is in:
 - (i) Foster care; or

(ii) Subsidized adoption; or

(iii) A nursing facility or intermediate care facility for mentally retarded (ICF/MR); or

(iv) An approved inpatient psychiatric facility.

(b) Eligibility requirements under chapter 388-509 WAC.

(3) A current client of Title II, Social Security Administration (SSA) benefits who:

- (a) Was a concurrent client of Title II and SSI benefits;
- (b) Is ineligible for SSI benefits and/or state supplementary payments; and

(c) Would be eligible for SSI benefits if the department deducts the following from the current Title II benefit amount:

(i) All Title II cost-of-living benefit increases under P.L. 94-566, Section 503 received by the client since termination from SSI/SSP; and

(ii) All Title II cost-of-living benefit increases received during the time period in (c)(i) of this subsection by the client's spouse and/or other financially responsible family member living in the same household.

(4) An SSI client, after January 1, 1981, who continues to be eligible for medical assistance under P.L. 96-265 and 99-643;

(5) A currently disabled client receiving widow's or widower's benefits under Section 202 (e) or (f) of the Social Security Act if the disabled client:

(a) Was entitled to a monthly insurance benefit under Title II of the Social Security Act for December 1983; and

(b) Was entitled to and received a widow's or widower's benefit based on a disability under Section 202 (e) or (f) of the Social Security Act for January 1984;

(c) Became ineligible for SSI/SSP in the first month in which the increase provided under Section 134 of P.L. 98-21 was paid to the client;

(d) Has been continuously entitled to a widow's or widower's benefit under Section 202 (e) or (f) of the act;

(e) Would be eligible for SSI/SSP benefits if the amount of that increase, and any subsequent cost-of-living increases provided under Section 215(i) of the act, were disregarded;

(f) Is fifty through fifty-nine years of age; and

(g) Filed an application for Medicaid coverage before July 1, 1988.

(6) Effective January 1, 1991, any person receiving Title II disabled widow/widower benefits (DWB) under Section 202 (e) or (f) of the SSA, if the person:

(a) Is not eligible for the hospital insurance benefits under Medicare Part A of Title XVIII;

(b) Received SSI/SSP payments in the month before receiving such Title II benefits;

(c) Became ineligible for SSI/SSP due to receipt of or increase in such Title II benefits; and

(d) Would be eligible for SSI/SSP if the amount of such Title II benefits or increase in such Title II benefits under Section 202(e) or (f) of the SSA, and any subsequent cost-of-living increases provided under Section 215(i) of the act were disregarded.

(7) A disabled or blind client receiving Title II Disabled Adult Childhood (DAC) benefits under Section 202(d) of the SSA if the client:

- (a) Has attained eighteen years of age;

(b) Lost SSI/SSP on or after July 1, 1988, due to receipt of or increase in DAC benefits; and

(c) Would be eligible for SSI/SSP if the amount of the DAC benefits or increase under Section 202(d) of the SSA and any subsequent cost-of-living increases provided under Section 215(i) of the SSA Act were disregarded.

(8) A client who:

(a) In August 1972, received:

(i) Old age assistance (OAA);

(ii) Aid to blind (AB);

(iii) Aid to families with dependent children (AFDC); or

(iv) Aid to the Permanently and totally disabled (APTD); and

(b) Was entitled to or received retirement, survivors, and disability insurance (RSDI) benefits; or

(c) Is ineligible for OAA, AB, AFDC, SSI or APTD solely because of the twenty percent increase in Social Security benefits under P.L. 92-336.

(9) A pregnant woman whose family income is at or below one hundred eighty-five percent of the Federal Poverty Level (FPL), or postpartum woman as described under WAC 388-508-0830;

(10) A child, born to a woman eligible for and receiving medical assistance on the date of the child's birth, from the date of birth for a period of one year when the child remains a member of the mother's household;

(11) A child eighteen years of age or younger meeting residence, citizenship, and Social Security number requirements whose countable family income is(=

~~(a) Under one hundred eighty-five percent of the Federal Poverty Level (FPL) for a child under one year of age; or~~

~~(b) Under one hundred thirty-three percent of the FPL for a child five years of age or younger; or~~

~~(c) Under one hundred percent of the FPL for a child eighteen years of age or younger))~~ at or under two hundred percent of the FPL.

(12) In a family unit ineligible for AFDC financial assistance as a result (wholly or in part) of the collection or increased collection of child or spousal support shall be eligible for medical assistance for four months beginning with the month of ineligibility, if the family unit received AFDC financial assistance in at least three of the six months immediately preceding the month of ineligibility;

(13) In a family unit which becomes ineligible for AFDC before April 1, 1990, solely because of increased hours or increased income from employment shall remain categorically eligible for medical assistance for four calendar months beginning with the month of ineligibility, provided:

(a) The family received AFDC in at least three of the six months immediately preceding the month of ineligibility; and

(b) A member of such family continues to be employed; and

(c) The department considers earned income tax credits (EITC) as income for the purposes of this subsection.

(14) Denied AFDC cash payments solely because of a departmental recovery of an overpayment;

(15) In a medical facility and:

(a) Who would be eligible for cash assistance if the person was not institutionalized; or

(b) Is SSI categorically related and would not be eligible for cash assistance if the person was not institutionalized,

and the person's gross income does not exceed the three hundred percent SSI benefit cap.

(16) Sixty-five years of age or older, a patient in an institution for mental diseases (IMD), and is resource and income eligible as described under subsection (15)(a) or (b) of this section;

(17) A person eligible for and accepting hospice services as described under WAC 388-86-047 and who shall be:

(a) SSI categorically related with gross income less than three hundred percent of the SSI Federal Benefit Rate; or

(b) AFDC categorically related.

(18) Blind or presumptively disabled under SSI criteria, as described under WAC 388-511-1105, and the person receives continuing general assistance (GA-X) cash assistance;

(19) An alien ineligible for AFDC or SSI cash assistance because of deeming of income of the alien's sponsors;

(20) Not an inmate of a public institution;

(21) Not receiving cash assistance because of special situations as defined under WAC 388-507-0740; or

(22) A client who:

(a) Was entitled to RSDI benefits in August 1972; and

(b) Is ineligible for AFDC or SSI solely because of the twenty percent increase in Social Security benefits under PL 92-336.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-509-0910 Medicaid for children—Eligible to nineteen years of age. The department shall find a child eighteen years of age or younger eligible for Medicaid when the child meets:

(1) Citizenship, residence, and Social Security number requirements under chapter 388-505 WAC; and

(2) Income (~~requirements corresponding to the age level of the child~~) standards described under WAC 388-509-0960 (~~((1), (2), and (3))~~).

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-509-0920 Children's health program. (1) The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

(a) The child is not eligible for a federally-funded Medicaid program; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under (~~WAC 388-509-0960(3))~~ subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

(a) Following AFDC methodology; and

(b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

(a) Citizenship;

(b) Social Security number; or

(c) Resources limits.
(4) The department shall find that one hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	\$ 614
(b) Two	\$ 820
(c) Three	\$1,027
(d) Four	\$1,234
(e) Five	\$1,440
(f) Six	\$1,647
(g) Seven	\$1,854
(h) Eight	\$2,060

(i) For family units with more than eight members, add \$207 to the monthly income for each additional member.

(g) Seven	\$1,854
(h) Eight	\$2,060
(1) One	\$1,227
(2) Two	\$1,640
(3) Three	\$2,054
(4) Four	\$2,467
(5) Five	\$2,880
(6) Six	\$3,294
(7) Seven	\$3,707
(8) Eight	\$4,120

((+)) (9) For family units with more than eight members, add (((\$207)) \$414 to the monthly income for each additional member.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-509-0960 Children's income standards.
 The department shall determine(=

~~(1) An infant under one year of age eligible as categorically needy when the infant is a member of a family whose total family countable income does not exceed one hundred eighty five percent of the current federal poverty level (FPL). See income guidelines as described under WAC 388-508-0805.~~

~~(2) A child one year of age, but under six years of age, eligible as categorically needy when the total family countable income does not exceed one hundred thirty three percent of the FPL. One hundred thirty three percent of the current FPL is:~~

Family Size	Monthly Income
(a) One	\$ 816
(b) Two	\$1,091
(c) Three	\$1,366
(d) Four	\$1,641
(e) Five	\$1,916
(f) Six	\$2,191
(g) Seven	\$2,465
(h) Eight	\$2,740

~~(i) For family units with more than eight members, add \$275 to the monthly income for each additional member.~~

~~(3)) a child ((eighteen years of age or younger)) meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed ((one)) two hundred percent of the federal poverty level (FPL). ((One)) The department shall find that two hundred percent of the current FPL ((is)) equals:~~

Family Size	Monthly Income
((a) One	\$ 614
(b) Two	\$ 820
(c) Three	\$1,027
(d) Four	\$1,234
(e) Five	\$1,440
(f) Six	\$1,647

WSR 94-14-054
EMERGENCY RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3747—Filed June 30, 1994, 11:31 a.m., effective July 1, 1994, 12:01 a.m.]

Date of Adoption: June 30, 1994.

Purpose: Provides that Sneede vs. Kizer rules are changed to allow an eligibility determination for one or more family members based on family income prior to establishing separate medical assistance units. This change is intended to simplify the process.

Citation of Existing Rules Affected by this Order: Amending WAC 388-506-0610 AFDC related medical programs.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Change the Sneede vs. Kizer processing.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 30, 1994

Dewey Brock, Chief
 Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-506-0610 AFDC related medical programs. (1) When determining eligibility for medical programs, the department shall consider:

(a) The family unit living in the same household as including all family members when determining program relationship;

(b) A relative financially responsible only as follows:

(i) The natural or adoptive parent or stepparent to a child eighteen years of age or younger living in the same household; and

(ii) Spouse to spouse living in the same household.

(c) As a separate medical assistance unit (MAU) the following family member living in the same household, when ~~((the))~~ the family member~~((s are))~~ is not eligible for a categorically needy medical care program:

- (i) A child with countable income or resources;
 - (ii) A child in common of unmarried parents;
 - (iii) Each unmarried parent of a child in common with such parent's separate children, if any; or
 - (iv) A nonresponsible caretaker relative.
- (d) Categorically related family members, other than those described under (c) of this subsection, in the same MAU; and

(e) A pregnant minor as not living in the same household as her parent regardless of whether she lives with her parent. See subsections (4)(b) and (5)(b) of this section.

(2) The department shall consider income and resources jointly for spouses and spouses' children living in the same household unless the exceptions in subsection (1)(c) of this section are met. See WAC 388-506-0620 for the financial responsibility requirements for SSI-related clients.

(3) When determining eligibility for medical care, the department shall ~~((not))~~ consider the countable income or resources of a child available only to ~~((any person other than))~~ the child.

(4) The department shall consider the income of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall:

(i) Allow a parent one hundred percent of the Federal Poverty Level (FPL) for the parent and other members of the parent's MAU; and

(ii) Allocate income in excess of one hundred percent of the FPL on a prorated basis to all children eighteen years of age or younger in separate MAUs for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's income is actually contributed to the child.

(5) The department shall consider the resources of a parent of a child eighteen years of age or younger:

(a) Living in the same household, available to the child whether or not actually contributed. The department shall ensure a parent's countable resources are:

- (i) Prorated; and
- (ii) Allocated in equal shares to:
 - (A) The parent; and
 - (B) Each person for whom the parent is financially responsible.

(b) Not living in the same household, only to the extent the parent's resources are actually contributed to the child.

(6) When determining medical care eligibility, the department shall not consider available, unless actually contributed to the client, the income and resources of a:

(a) Stepparent not legally liable for support of the stepchildren;

- (b) Legal guardian other than the parent of the client;
- (c) Caretaker other than the parent of the client;
- (d) Alien sponsor;
- (e) Sibling or child of the client; or
- (f) Spouse not living in the same household as the client.

(7) The department shall determine each MAU's medical care eligibility using:

- (a) The MAU's countable income and resources;
- (b) Household size for the number of persons in the MAU; and

(c) The income and resource standards that apply to the household size equal to the number of persons in the MAU.

(8) For each separate MAU, the department shall exempt one vehicle as described under WAC 388-216-2650.

(9) When the household contains an SSI-related family member who is ineligible for AFDC-related categorically needy Medicaid because of income or resources, that member shall be removed from the MAU and placed in a separate CAU. The department shall determine eligibility for:

(a) The remaining members of the MAU without consideration of the income or resources of the SSI-related client~~((The department shall determine eligibility of))~~; and

(b) The SSI-related member using SSI-related income and resource rules.

**WSR 94-14-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-56—Filed June 30, 1994, 4:58 p.m., effective July 1, 1994,
12:01 a.m.]

Date of Adoption: June 29, 1994.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-56-19100E; and amending WAC 220-56-191 and 220-57-370.

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: Interim rules needed until the permanent 1994-1995 sport rules take effect.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 29, 1994

Judith Freeman

Deputy

for Robert Turner

Director

NEW SECTION

WAC 220-56-19100F Puget Sound salmon—Saltwater seasons and bag limits. Notwithstanding the provisions of WAC 220-56-191, effective July 1, 1994 until further notice it is unlawful to fish for salmon in Catch Record Card Areas 5 through 13 except as provided for in this section:

Area 5: Closed

Area 6: Closed

Area 7: 2 salmon daily bag limit, 22-inch minimum size for chinook, no minimum size for other salmon.

Area 8-1: Closed, except special daily bag limit of 2 salmon in those waters of Oak Harbor north and west of a line from Blowers Bluff to Forbes Point. 22-inch minimum size for chinook, no minimum size for other salmon.

Area 8-2: Closed, except effective August 1 until further notice special daily bag limit of 2 salmon in those waters of Puget Sound adjacent to Tulalip Bay west of a line from Mission Point to Hermosa Point and within 2000 feet from shore between the pilings at Old Bowers Resort (on the south) to the fishing boundary marker located approximately 1.4 miles northwest of Hermosa Point (on the north). 22-inch minimum size for chinook, no minimum size for other salmon.

Area 9: Closed, except special daily bag limit of 2 salmon when fishing from the Edmonds Public Fishing Pier. 22-inch minimum size for chinook, no minimum size for other salmon.

Area 10: Closed, except:

(1) Special daily bag limit of 2 salmon in the East Kitsap Area - those waters westerly of a line from the light at the end of Indinaola Dock to Point Monroe and those waters westerly of a line projected from Beans Point on Bainbridge Island to Orchard Point on the Kitsap Peninsula. 22-inch minimum size for chinook, no minimum size for other salmon.

(2) Special daily bag limit of 2 salmon in the Allen Bank Area - those waters bounded by a line projected from the southeasterly tip of Blake Island to the easterly tip of the Southworth Ferry Dock, thence to the buoy at the northerly tip of Vashon Island, thence to the buoy at the northeasterly tip of Blake Island (Fl R 4sec) thence to Blake Island. 22-inch minimum size for chinook, no minimum size for other salmon.

(3) Special daily bag limit of 2 salmon when fishing from the Seacrest Park Fishing Pier. 22-inch minimum size for chinook, no minimum size for other salmon.

Area 11: 2 salmon daily bag limit, 22-inch minimum size for chinook, no minimum size for other salmon. Titlow Beach Marine Preserve Area closed to salmon fishing except from shore or non-motorized craft.

Area 12: Closed.

Area 13: 2 salmon daily bag limit, 22-inch minimum size for chinook, no size for other salmon.

During the openings provided for in this section, there are specified closures in WAC 220-56-128 and 220-56-195 and gear and area restrictions at Edmonds underwater park, and the Edmonds, Elliott Bay, Les Davis, and Des Moines public fishing piers as provided in Chapter 220-WAC.

NEW SECTION

WAC 220-57-37000F Puyallup River. Notwithstanding the provisions of WAC 220-57-370, effective July 16, 1994 until further notice, Bag Limit A in those waters downstream from the mouth of the Carbon River to the 11th Street Bridge.

REPEALER

The following section of the Washington Administrative Code is repealed effective July 1, 1994:

WAC 220-56-19100E Puget Sound salmon—
Saltwater seasons and bag
limits. (94-27)

**WSR 94-14-071
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 94-60—Filed July 1, 1994, 3:25 p.m., effective July 1, 1994,
12:01 a.m.]

Date of Adoption: June 30, 1994.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-44-050.

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 for conservation and to maintain consistency between state and federal regulations.

Effective Date of Rule: July 1, 1994, 12:01 a.m.

June 30, 1994

Bruce A. Crawford
for Robert Turner
Director

NEW SECTION

WAC 220-44-05000K Coastal bottomfish catch limits. Notwithstanding the provisions of WAC 220-44-050, effective 12:01 a.m. July 1, 1994 until further notice it is unlawful to possess, transport through the waters of the state or land in any Washington State port bottomfish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 29, 58B, 59A, 59B, 60A, 61, 62, or 63 in excess of the amounts or less than the minimum sizes shown below for the following species:

(1) The following definitions apply to this section:

(a) Cumulative limit - A cumulative limit is the maximum amount of fish that may be taken and retained, possessed or landed per vessel per calendar month, without a limit on the number of landings or trips. The cumulative limit includes all fish harvested by a vessel during the month, whether taken in limited entry or open access fisheries. Once a cumulative limit has been achieved, an operator may begin fishing on the next cumulative limit so long as the fish are not landed until after the beginning of the next cumulative limit.

(b) Daily trip limit - The maximum amount of fish that may be taken and retained, possessed or landed per vessel from a single fishing trip in 24 consecutive hours, starting at 0001 hours.

(b) Groundfish limited entry fishery - Fishing activity by a trawl, setline or bottomfish pot equipped vessel that has received a federal limited entry permit issued by the National

Marine Fisheries Service endorsed for the qualifying gear type.

(c) Groundfish open access fishery - Fishing activity by a vessel equipped with setline or bottomfish pot gear that has not received a federal limited entry permit, or a vessel using gear other than trawl, setline or bottomfish pot gear.

(d) Vessel trip - A vessel trip is defined as having occurred upon the initiation of transfer of catch from a fishing vessel.

(e) Vessel trip limit - The amount of fish that may not be exceeded per vessel trip. All fish aboard a fishing vessel upon the initiation of transfer of catch are to be counted towards the vessel trip limit.

(2) Groundfish limited entry fishery limits. The following limits apply to the groundfish limited entry fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63, and apply to all groundfish taken in Puget Sound Marine Fish-Shellfish Management and Catch Reporting Area 29:

(a) Pacific ocean perch - No limit on the number of vessel trips landings less than 1,000 pounds per vessel trip. Landings greater than 1,000 pounds but not to exceed 3,000 pounds allowed only if Pacific ocean perch represent 20 percent or less of fish aboard per vessel trip. No landings of more than 3,000 pounds per vessel trip. No minimum size.

(b) Widow rockfish - Cumulative limit of 30,000 pounds. No minimum size.

(c) Shortbelly rockfish - No maximum poundage. No minimum size.

(d) Black rockfish - The vessel trip limit for black rockfish for commercial fishing vessels using hook-and-line gear between the U.S. Canada border and Cape Alava (48°09'30" N. latitude) and between Destruction Island (47°40'00" N. latitude) and Leadbetter Point (46°38'10" N. latitude), is 100 pounds (round weight) or 30 percent by weight of all fish on board including salmon, whichever is greater, per vessel trip.

(e) Yellowtail rockfish -

(i) North of Cape Lookout (45°20'15"N) - Cumulative limit of 14,000 pounds. No minimum size.

(ii) South of Cape Lookout - Cumulative limit of 30,000 pounds provided the licensee has made a declaration as follows:

(A) The declaration must be made at least 12 hours prior to departing from port by telephoning the Department Montesano Office at (206) 249-4628, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The declarer will receive a declaration number from the department.

(B) The declaration must include: vessel name; federal limited entry permit number; operator's name, phone number and address; anticipated date and port of departure; anticipated date and port of return.

(C) Phone declarations must be followed by a written declaration, signed by the operator and mailed or delivered to the Montesano Office at 48A Devonshire Road, Montesano, WA 98563, prior to the day of departure. Forms are available at that office or from coastal processors.

(D) No fishing north of Cape Lookout is allowed after declaring for fishing south of Cape Lookout until the vessel has landed at a Washington or Oregon port notified the Montesano Office during business hours.

(iii) There is a maximum cumulative limit for landings from both north and south of Cape Lookout of 30,000 pounds.

(iv) Wholesale fish dealers purchasing more than 14,000 pounds of yellowtail rockfish must enter the declaration number on the fish receiving ticket.

(f) DTS Complex - (Sablefish, Dover sole and thornyhead rockfish) - Cumulative limit of 30,000 pounds, of which no more than 8,000 pounds may be thornyhead rockfish and no more than 6,000 pounds may be trawl-caught sablefish.

The following limits apply to sablefish taken under this subsection:

(i) Trawl vessels - Cumulative limit of 6,000 pounds. Vessel trip limit of 1,000 pounds or 25 percent of the DTS complex, whichever is greater (the sablefish allowance equals .33 x the combined weight of Dover sole and thornyhead rockfish). In the trip limit, no more than 5,000 pounds may be sablefish less than 22 inches in length. To convert sablefish from dressed weight to round weight, multiply the dressed weight by 1.6.

(ii) Non-trawl vessels - Vessel trip limit of 250 pounds (round weight) immediately until further notice. To convert round weight from dressed weight, multiply the dressed weight by 1.6.

(g) Sebastes complex - All other species of rockfish except Pacific ocean perch, widow, shortbelly, yellowtail, thornyhead (*Sebastes* spp.) and black rockfish except black rockfish taken with hook and line gear as provided for in (d) above - Cumulative limit of 80,000 pounds. No minimum size.

(h) Pacific Whiting - Vessel trip limit of 10,000 pounds through April 14, 1994. No minimum size. No vessel trip limit beginning 0001 hours April 15, 1994. No minimum size.

(3) Groundfish open access fishery limits. The following limits apply to the groundfish open access fishery in Coastal Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A, 59B, 60A, 61, 62, and 63:

(a) Rockfish - Vessel trip limit of 10,000 pounds. Cumulative trip limit of 40,000 pounds of which no rockfish may exceed the cumulative limits for the limited entry fisheries.

(b) Sablefish - Daily trip limit of 250 pounds.

(4) It is unlawful during the unloading of the catch and prior to its being weighed or leaving the unloading facility to intermix with any other species a species or category of bottomfish having a cumulative limit, vessel trip limit or daily trip limit.

(5) The fisher's copy of all fish receiving tickets showing landings of species provided for in this section shall be retained aboard the landing vessel for 90 days after landing.

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.

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-44-05000J Coastal bottomfish catch limits. (94-06)

WSR 94-14-072
EMERGENCY RULES
DEPARTMENT OF PERSONNEL
[Filed July 1, 1994, 4:02 p.m.]

Date of Adoption: July 1, 1994.

Purpose: WAC 356-56-050 addresses transition of employees into the Washington management service.

Citation of Existing Rules Affected by this Order: Amending WAC 356-56-050.

Statutory Authority for Adoption: Chapter 41.06 RCW, RCW 41.06.500.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Emergency adoption of WAC 356-56-050 is necessary to make immediate provisions for project positions which are transitioned into the Washington management service.

Effective Date of Rule: Immediately.

July 1, 1994
Dennis Karras
Director

AMENDATORY SECTION (Amending WSR 94-12-055, filed 5/27/94, effective 7/1/94)

WAC 356-56-050 Transition. (1) Until such time that an agency completes the initial evaluation of the position (as described in WAC 356-56-105) or changes the position, the incumbent and position when initially placed in the Washington management service will:

- (a) Retain current salary;
- (b) Immediately assume permanent status in the Washington management service for permanent status employees;
- (c) Obtain permanent status upon completion of the probationary or trial service time period for employees in trial service or probationary status at the time of transition; and,
- (d) Continue in the current work period designation until changed by the agency.

(2) Until all positions in an agency are evaluated in accordance with WAC 356-56-105, employees shall be treated in accordance with WAC 356-30-330 should a reduction in force occur.

(3) Incumbents in positions transitioned into Washington management service will continue to receive periodic increments as specified in WAC 356-14-110 within the forty-five thousand dollar salary limit set by the 1993 legislature.

(4) Permanent status employees who are in project positions at the time their regular positions are placed in the Washington management service, have return rights to the same or similar Washington management service positions.

(5) Incumbents of project positions that are transitioned to the Washington management service will retain the return, reduction-in-force, voluntary demotion, transfer and promotion rights and requirements as provided in WAC 356-30-145.

EMERGENCY

WSR 94-14-003
EXECUTIVE ORDER
OFFICE OF THE GOVERNOR
 [EO 94-08]

ESTABLISHING THE COUNCIL ON
FAMILIES, YOUTH AND JUSTICE

I. Introduction

The quality of our state's future depends upon the strength of our families and upon our ability to ensure the safe, healthy, and disciplined development of our children.

Over the past twenty years, increasing numbers of young people have found themselves facing problems many adults can scarcely imagine; hard-core substance abuse, delinquency, school failure, teen pregnancy and deadly violence have become almost common place in our children's schools and in their lives.

In 1977, the Washington legislature passed the Juvenile Justice Act, adopting laws relating to juvenile offenders, family reconciliation, youth at risk, and dependency proceedings for children whose parents may not be meeting their obligations.

That year marked the last major revision of Washington's juvenile laws. Since then, the lives of our state's children and youth have changed dramatically, as evidenced by the following:

- the number of suspected child abuse and neglect cases reported to Child Protective Services has doubled in the past six years;
- the number of children in out-of-home care has increased by 30 percent in the past 10 years;
- the rate of teen pregnancy increased by 19 percent between 1988 and 1991;
- the use of cocaine among young people increased by almost 400 percent between 1985 and 1992;
- 13 percent of our 11 to 18 year olds are presently in need of treatment for alcohol and other drug problems;
- almost 27 percent of our youth fail to complete high school; and
- the number of young people arrested for violent crimes has almost doubled since 1982.

Since 1977, in an effort to address the needs of the growing number of young people in trouble, the legislature has enacted several additional laws relating to children, youth, and families. However, there has not been a comprehensive review of the 1977 Juvenile Justice Act and these later laws to determine whether their objectives and assumptions remain valid in light of the vastly different lives and problems of today's children and families, to assess their relationship to one another, or to determine their effectiveness in meeting their objectives.

II. Council on Families, Youth, and Justice

WHEREAS, the citizens of Washington rightfully expect that our juvenile system will protect our children and youth from abuse and neglect, assist troubled families, emphasize parental involvement and accountability, help prevent

delinquent behavior, provide swift and certain punishment, and ensure public safety;

NOW, THEREFORE, I, Mike Lowry, Governor of the State of Washington, by virtue of the power vested in me, do hereby establish the Council on Families, Youth, and Justice.

The mission of the Council is to perform a comprehensive review of Washington's juvenile laws and to recommend modifications to these laws that will result in an integrated juvenile system that is effective in meeting its objectives, as well as in meeting the needs of the children, youth, and families it serves, and that will result in the prudent use of limited state resources. The Council's mission also includes the development of a state-wide strategy for preventing children and youth from entering the juvenile system.

The Council shall be composed of four work groups, as follows: (1) Juvenile Offenders Work Group; (2) Youth in Crisis Work Group; (3) Dependency Work Group; and, (4) Prevention Strategies Work Group. The Governor shall appoint a chair for each work group. The four work group chairs shall serve as co-chairs of the Council. The work groups shall be composed of at least 10, but not more than 17, members. The membership of each work group shall be appointed by its chair, subject to the approval of the Governor. The membership shall be ethnically, racially, and geographically diverse, and shall include persons with relevant expertise and/or broad-based experience.

III. Responsibilities of the Council

A. The Council shall have the following responsibilities:

1. Conduct a comprehensive review of Washington's juvenile laws, including but not limited to those relating to juvenile offenders, dependency/termination proceedings, family reconciliation, at-risk youth, juvenile records, involuntary treatment, compulsory school attendance, and sexually aggressive youth, to determine whether the laws' objectives and assumptions continue to be valid, to assess their relationship to each other and how they can be better integrated, and to identify impediments in the laws that inhibit their effectiveness in meeting their objectives. As part of its review, the Council shall evaluate the fiscal impact of the current system.
2. Develop a state-wide strategy for preventing children and youth from entering the juvenile system. The strategy shall include approaches for identifying, developing, maximizing and allocating resources for prevention activities and for identifying and disseminating effective prevention practices, programs and services. In addition, the strategy shall specifically acknowledge the reform of the state's health care system and the decentralization of the state's family services system, as set forth in E2SHB 2319 (Chapter 7, Laws of 1994, 1st Special Session). The strategy shall define the proper role of the state in relation to these reforms and shall determine how the state can best promote and complement them.

B. The specific responsibilities of the work groups are:

1. The Juvenile Offenders Work Group shall review the juvenile offender statutes for their effectiveness in: a) deterring first-time and minor offenders from further criminal activity; b) providing appropriate offenders with meaningful opportunities for rehabilitation, together with adequate sanctions for those offenders who fail to rehabilitate; and c) imposing penalties that are reasonably proportionate to particularly serious crimes and to persistent patterns of criminal behavior.
2. The Youth in Crisis Work Group shall review the laws relating to youth in crisis for their effectiveness in: a) keeping runaway, truant, and substance abusing youth off the streets while ensuring their safety at home, or where appropriate, in an alternative placement; and b) connecting these youth and their families with timely and appropriate services.
3. The Dependency Work Group shall review the dependency/termination laws for their timeliness and effectiveness in: a) protecting children in appropriate cases; b) reuniting families; and c) placing children in permanent homes when reunification is not in the child's best interests.
4. The Prevention Strategies Work Group shall review past and present state prevention efforts, along with recent state reforms, to determine the state's proper role in promoting and supporting prevention activities across the state.

- C. In carrying out its responsibilities, the Council shall review previous studies and the efforts of other groups and organizations, including the Juvenile Issues Task Force and the Governor's Juvenile Justice Advisory Council. In addition, the Council shall coordinate with the Special Legislative Task Force on the Juvenile Justice Act.
- D. Prior to adopting its final recommendations, the Council shall present its preliminary recommendations to the special Legislative Task Force on the Juvenile Justice Act and to the public for comment.
- E. The Council shall submit a report containing final recommendations for legislation to the Governor, the Attorney General, and the Legislature by December 1, 1994. The recommendations shall reflect consideration of their fiscal impact.
- F. The Council shall complete its responsibilities prior to the end of the 1995 legislative session and shall expire following the last day of that session.
- G. The Office of Financial Management, in collaboration with the Attorney General's Office and other state agencies participating in the work of the Council, shall develop a plan for the provision of such resources as may be necessary to carry out the functions of the Council. Members of the Council may receive per diem and travel expenses in accordance with OFM policies.

This Executive Order is effective immediately.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this 21st day of June, A.D., nineteen hundred and ninety-four.

Mike Lowry

Governor of Washington

BY THE GOVERNOR:

Donald F. Whiting

Assistant Secretary of State

WSR 94-14-019

**NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE**

[Memorandum—June 24, 1994]

A special meeting of the board of trustees of Bellingham Technical College will be held on Thursday, July 14, 1994, 9 a.m., in the Bellingham Technical College Building G Conference Center A. The purpose of the meeting is to consider for adoption an annual list of objectives, and to discuss annual self-evaluation and presidential evaluation. Following the special meeting, an executive session will be held to review professional negotiations and personnel matters.

WSR 94-14-024

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—June 27, 1994]

Board of Trustees Meeting
June 30, 1994
Sno-King Room 103
4:30 - 6:25

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 94-14-049

**NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE**

[Memorandum—June 30, 1994]

Board of Trustees Meeting
June 30, 1994
Sno-King Room 103
4:30 - 6:25

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.

MISCELLANEOUS

WSR 94-14-059
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD

[Memorandum—June 30, 1994]

WASHINGTON STATE
 WORKFORCE TRAINING AND
 EDUCATION COORDINATING BOARD
 JULY 20, 1994

INTERNATIONAL AIR ACADEMY
 2901 EAST MILL PLAIN BOULEVARD
 VANCOUVER, WASHINGTON

July 19, 1994, Gulls Nest, Red Lion Inn at the Quay, 6:30 p.m., the Workforce Training and Education Coordinating Board will hold a dinner meeting to discuss the comprehensive plan.

July 20, 1994, 8:00 a.m. - 5:00 p.m., the Workforce Training and Education Coordinating Board (WTECB) will hold its regular business meeting on Wednesday, July 20, beginning at 8:00 a.m. WTECB will tour the International Air Academy campus. The board will take formal action to adopt the comprehensive plan. Other anticipated action items include: WTECB's 1994-1995 operating budget, WTECB's 1995-1997 budget submission, and the process for agency budget reviews. Informational items will include the board's study of workforce programs as required in HB 1988. Evelyn Ganzglass, Policy Studies Director, Employment and Social Services, National Governors' Association, (NGA) will make a presentation on the NGA performance management project. Presentations will also be made by members of the Private Vocational School Advisory Committee, and Washington Federation of Private Vocational Schools. Susan Longstreth, Executive Director, COVE, will update the board on planning for Carl D. Perkins Act reauthorization.

People needing special accommodations, please call Anne Townsend at least ten days in advance at (206) 753-5677 or SCAN 234-5677.

WSR 94-14-066
DEPARTMENT OF HEALTH

(Board of Optometry)
 [Filed July 1, 1994, 12:56 p.m.]

STATE OF WASHINGTON
 BOARD OF OPTOMETRY
 NOTICE OF HEARING ON RULES
 REVIEW COMMITTEE'S FINDING

On September 9, 1994, at 9:00 a.m. until 12:00 p.m. in the Salon Room of the Wyndham Garden Hotel located at 18118 Pacific Highway South, Seattle, WA 98188, the Board of Optometry, at its previously scheduled meeting, will conduct a public hearing regarding the finding and reasons of the Joint Administrative Rules Review Committee (JARRC) of the Washington state legislature.

The finding and reasons to be the subject of the hearing are as follows: Several policy statements and guidelines promulgated by the Board of Optometry appear to be outside the scope of the board's authority. In chapter 18.53 RCW, the practice of optometry is defined in part as "prescription

and provision of visual therapy," "treatment with topically applied drugs," or the "ascertainment of the perceptive, neural, muscular or pathological condition of the visual system." Persuasive arguments were presented that decisions issued by the board exceed the legislative authority granted by these statutes resulting in an expansion of the scope of practice for optometrists.

Written submissions pertaining to this topic may also be submitted to the Board of Optometry, c/o Judy Haenke, Program Manager, 1300 S.E. Quince, P.O. Box 47863, Olympia, WA 98504-7863.

WSR 94-14-070
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES

[Memorandum—June 27, 1994]

The Seattle Community College District board of trustees will hold their regular meeting on Tuesday, July 5, 1994, in the President's Board Room, at South Seattle Community College. The meeting will begin with a work session, at 4:30 p.m., in Room CC120.

WSR 94-14-073
NOTICE OF PUBLIC MEETINGS
PUBLIC DISCLOSURE COMMISSION

[Memorandum—June 30, 1994]

The Public Disclosure Commission has cancelled its regular meeting scheduled for Tuesday, July 26, 1994. A special meeting has been scheduled for Thursday, July 14, 1994. The meeting will begin at 9 a.m. in the Cascade Room, Aladdin Motor Inn, 900 South Capitol Way, Olympia, WA.

In addition, the regular meeting scheduled for Tuesday, August 23, 1994, has been cancelled. A special meeting has been scheduled for Monday, August 22, 1994, in the Second Floor Conference Room, Evergreen Plaza Building, 711 Capitol Way, Olympia, WA.

WSR 94-14-074
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—July 1, 1994]

MEETING NOTICE FOR JULY 1994
 TRANSPORTATION IMPROVEMENT BOARD
 OLYMPIA, WASHINGTON 98504-0901

Increase Subcommittee, 2:00 p.m. - 3:00 p.m., Thursday, July 21, 1994, in Olympia at the Best Western Aladdin Motor Inn, 900 South Capitol Way, Cascade Room, Olympia.

Sidewalk Subcommittee, 3:00 p.m. - 5:00 p.m., Thursday, July 21, 1994, at the Best Western Aladdin Motor Inn, Cascade Room.

Work Session, 6:00 p.m., Thursday, July 21, 1994, at the Best Western Aladdin Motor Inn, Cascade Room.

Board Meeting, 9:00 a.m., Friday, July 22, 1994, at the Olympia Center, 222 North Columbia, Olympia.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the TIB office at (206) 753-7198 by July 12, 1994.

There is no TIB meeting in August. The next scheduled meeting is September 15, 1994, in Ellensburg. A notice with further detail of the September meeting will be mailed September 2, 1994.

WSR 94-14-075
RULES OF COURT
STATE SUPREME COURT
[June 29, 1994]

IN THE MATTER OF THE ADOPTION OF THE ADMENDMENTS TO GR 11.2; APR 6(b); APR 9(d); GR 18; APR 15; RLD 9.1(b); RLD 11.1(m); RAP 1.1(a); RAP 2.1(c); RAP 2.2(a); RAP 2.4 (c), (f), (g); RAP 2.5 (a), (b); RAP 3.3(a); RAP 4.2 (c), (d); RAP 5.1(f); RAP 5.2 (e), (f); RAP 5.3 (a), (b), (e); RAP 5.4; RAP 5.5; RAP 6.3; RAP 7.2 (d), (e); RAP 8.1 (b), (c), (d), (h); RAP 9.1(a); RAP 9.2 (a), (e), (g); RAP 9.5 (a), (b), (c); RAP 9.6; RAP 9.7 (a), (c); RAP 9.8(a); RAP 9.10; RAP 9.11(a); RAP 9.13; RAP 10.2(e); RAP 10.3 (g), (h); RAP 10.4 (c); RAP 11.4 (a); RAP 12.2; RAP 12.4 (a), (h); RAP 12.7(c); RAP 12.8; RAP 12.9(b); RAP 13.3(b); RAP 13.4 (a), (c), (d); RAP 13.7(b); RAP 14.3(a); RAP 15.2 (a), (h); RAP 15.4(c); RAP 17.4; RAP 17.7; RAP 18.1 (e), (j); RAP 18.3(a); RAP 18.7; RAP 18.9(a); RAP 18.12; RAP 18.14(e); RAP Forms 1-6, 9-16, 18-21; CR 4(d); CR 7(b); MAR 3.2; MAR 5.2; MAR 5.3 (a), (d), (e); MAR 6.2; MAR 6.3; CRLJ 4(d); CRLJ 5 (e), (f); CRLJ 7(b); CRLJ 8(c); CRLJ 11; CRLJ 12(i); CRLJ 26, CRLJ 44(a); CRLJ 50; CRLJ 58; CrRLJ 3.2(a); AND IRLJ 6.7) ORDER NO. 25700-A-

The Washington State Bar Association having recommended the adoption of the proposed amendments to GR 11.2; APR 6(b); APR 9(d); GR 18; APR 15; RLD 9.1(b); RLD 11.1(m); RAP 1.1(a); RAP 2.1(c); RAP 2.2(a); RAP 2.4 (c), (f), (g); RAP 2.5 (a), (b); RAP 3.3(a); RAP 4.2 (c), (d); RAP 5.1(f); RAP 5.2 (e), (f); RAP 5.3 (a), (b), (e); RAP 5.4; RAP 5.5; RAP 6.3; RAP 7.2 (d), (e); RAP 8.1 (b), (c), (d), (h); RAP 9.1(a); RAP 9.2 (a), (e), (g); RAP 9.5 (a), (b), (c); RAP 9.6; RAP 9.7 (a), (c); RAP 9.8(a); RAP 9.10; RAP 9.11(a); RAP 9.13; RAP 10.2(e); RAP 10.3 (g), (h); RAP 10.4(c); RAP 11.4(a); RAP 12.2; RAP 12.4 (a), (h); RAP 12.7(c); RAP 12.8; RAP 12.9(b); RAP 13.3(b); RAP 13.4 (a), (c), (d); RAP 13.7(b); RAP 14.3(a); RAP 15.2 (a), (h); RAP 15.4(c); RAP 17.4; RAP 17.7; RAP 18.1 (e), (j); RAP 18.3(a); RAP 18.7; RAP 18.9(a); RAP 18.12; RAP 18.14(e); RAP Forms 1-6, 9-16, 18-21; CR 4(d); CR 7(b); MAR 3.2; MAR 5.2; MAR 5.3 (a), (d), (e); MAR 6.2; MAR 6.3; CRLJ 4(d); CRLJ 5 (e), (f); CRLJ 7(b); CRLJ 8(c); CRLJ 11; CRLJ 12(i); CRLJ 26; CRLJ 44(a); CRLJ 50; CRLJ 58; CrRLJ 3.2(a); and IRLJ 6.7, and the Court having considered the amendments and comments submitted thereto, and having

determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the amendments as attached hereto are adopted.

(b) That the amendments will be published in the special rules edition of the Washington Reports on July 13, 1994, and will become effective September 1, 1994.

DATED at Olympia, Washington this 29th day of June, 1994.

James A. Anderson
Chief Justice

Table with 2 columns: Name and Title. Rows include Robert F. Utter (Smith, J.), Robert F. Brachtenbach (Guy, J.), Durham, J. (Johnson, J.), and J. M. Dolliver (Madsen, J.).

Reviser's note: The material contained in this filing will appear in the 94-16 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 94-14-099
NOTICE OF PUBLIC MEETINGS
HEALTH SERVICES COMMISSION
[Memorandum—July 5, 1994]

REGULAR COMMISSION MEETINGS

The following is the revised schedule of the Washington Health Services Commission's regular meetings in 1994. All meetings will usually begin at 9:00 a.m. and end about 6:00 p.m. (unless we schedule an evening public hearing). Meeting dates, times, and locations are subject to change, due to unforeseen circumstances.

Table with 2 columns: Date/City and Facility/Address. Rows include meetings in Bellingham, Yakima, Kennewick, Kirkland, and Everett.

COMMISSION WORKSHOPS

MISCELLANEOUS

From Wednesday, August 3, through Saturday, August 6, 1994, the commission will conduct a workshop in open, public session to take action on proposed rules and other work program recommendations. The workshop will begin each day at 8:30 a.m. and will end about 5:30 p.m. The workshop will be held in the music auditorium, Hertz Hall, at Central Washington University in Ellensburg, Washington.

From Wednesday, October 26, through Saturday, October 29, 1994, the commission will conduct a workshop in open, public session to take action on rules and other work program tasks. The workshop will begin each day at 8:30 a.m. and will end about 5:30 p.m. The site of the workshop will be announced in the future.

COMMISSION STAFF MEETINGS

During 1994, commission staff meetings will be held weekly on Tuesdays, beginning at 9:00 a.m., with the following exceptions:

Tuesday, August 9, beginning at 8:00 a.m.

Monday, August 29, beginning at 9:00 a.m.

No staff meeting will be held the week of September 5th.

Tuesday, September 13, beginning at 8:00 a.m.

Tuesday, November 8, beginning at 8:00 a.m.

The staff meetings are held at the Attorney General's Conference Center, Rowsix, Building 1, 4224 Sixth Avenue S.E., Lacey, WA.

WSR 94-14-103

REVIEW OF PREVIOUSLY ADOPTED RULES DEPARTMENT OF LABOR AND INDUSTRIES

[Filed July 6, 1994, 11:17 a.m.]

Finding of Joint Administrative Rules Review Committee Related to: Existing rule not within intent of legislature; and rule was not adopted in accordance with all applicable provisions of law.

Hearing on Committee's Finding will be Held: WestCoast SeaTac Hotel, Seattle Room, 18220 Pacific Highway South, Seattle, WA, on August 18, 1994, at 1:00 p.m.

Statement of Committee's Findings and Reasons: On Tuesday, June 21, 1994, the Joint Administrative Rules Review Committee (JARRC) found by a majority vote that the rules which address environmental tobacco smoke in office work environments (WAC 296-62-12000, 296-62-12003, 296-62-12005, 296-62-12007, and 296-62-12009) are not within the intent of the legislature as expressed by the statute which the rules implement, and that the rules have not been adopted in accordance with all applicable provisions of law.

The JARRC stated: "We base our findings on the written and oral testimony presented at the committee hearing on June 21, 1994. The testimony showed that the Department of Labor and Industries, while being aware of the Washington Clean Indoor Air Act, chapter 70.160 RCW, and the Indoor Air Quality in Public Buildings Act, chapter 70.162 RCW, adopted a rule prohibiting smoking in office workplaces which is contrary to these two more specific

statutes. This rule goes beyond the department's statutory authority.["]

"In addition, testimony showed that the small business impact statement (SBEIS) did address the comprehensive rules as originally proposed in November 1993. Subsequent to the withdrawal of the majority of these original rules in March 1994, however, the department did not adequately investigate the economic impact of the remaining rules on small businesses. Persuasive arguments were presented that in failing so to focus its SBEIS on the rule as adopted, the department did not adequately comply with the Regulatory Fairness Act."

The JARRC directed the department to file notice of a hearing within 30 days of receipt of the letter outlining the findings.

Other Agency Comments or Information: This public hearing will be limited to the issues as stated in the Joint Administrative Rules Review Committee findings as noted above. These issues are: The finding that this rule goes beyond the department's statutory authority, and the finding that the department did not comply with the Regulatory Fairness Act by not adequately investigating the economic impact of the adopted rules on small businesses. **It is important to note that this hearing is limited to only these two issues, and will not consider other issues such as the scientific basis for the rules, concerns about the rules being confined to only office worksites, or about rules being adopted in the future that could impact other types of work environments, etc.** In addition to the public hearing, written comments addressing the two issues as stated in the Joint Administrative Rules Review Committee findings will be accepted. These comments may be submitted to the department prior to or until 5:00 p.m. August 18, 1994, and addressed to: Mark Brown, Director, Department of Labor and Industries, P.O. Box 44620, Olympia, WA 98504-4620.

July 6, 1994
Mark O. Brown
Director

MISCELLANEOUS

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Prepropositional comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
1-21-010	AMD-P	94-09-045	16-212-020	AMD	94-10-002	16-223-070	REP	94-03-023
1-21-010	AMD	94-12-075	16-212-030	AMD-P	94-06-058	16-228-235	REP-P	94-09-017
1-21-170	AMD-P	94-09-045	16-212-030	AMD	94-10-002	16-228-235	REP	94-13-195
1-21-170	AMD	94-12-075	16-212-060	AMD-P	94-06-058	16-228-245	REP-P	94-09-017
4-25-020	REP-P	94-13-060	16-212-060	AMD	94-10-002	16-228-245	REP	94-13-195
4-25-030	REP-P	94-13-060	16-212-070	AMD-P	94-06-058	16-228-250	REP-P	94-09-017
4-25-080	REP-P	94-13-060	16-212-070	AMD	94-10-002	16-228-250	REP	94-13-195
4-25-185	REP	94-02-070	16-212-080	AMD-P	94-06-058	16-228-255	REP-P	94-09-017
4-25-186	REP	94-02-070	16-212-080	AMD	94-10-002	16-228-255	REP	94-13-195
4-25-187	REP	94-02-070	16-212-082	AMD-P	94-06-058	16-228-260	REP-P	94-09-017
4-25-188	REP	94-02-070	16-212-082	AMD	94-10-002	16-228-260	REP	94-13-195
4-25-270	REP-P	94-13-060	16-219	AMD-C	94-08-033	16-228-265	REP-P	94-09-017
4-25-280	REP	94-02-070	16-219-015	AMD-P	94-05-092	16-228-265	REP	94-13-195
4-25-300	REP	94-02-070	16-219-015	AMD	94-09-028	16-228-275	REP-P	94-09-017
4-25-320	REP	94-02-070	16-219-017	NEW-P	94-05-092	16-228-275	REP	94-13-195
4-25-410	NEW-P	94-13-059	16-219-017	NEW	94-09-028	16-304-040	AMD-P	94-09-046
4-25-521	NEW	94-02-068	16-219-018	NEW-P	94-05-092	16-304-040	AMD	94-12-046
4-25-522	NEW	94-02-068	16-219-018	NEW	94-09-028	16-304-050	AMD-P	94-09-046
4-25-625	NEW-P	94-13-062	16-219-018	NEW	94-09-028	16-304-050	AMD	94-12-046
4-25-627	NEW-P	94-13-062	16-219-020	AMD-P	94-05-092	16-304-110	AMD-P	94-09-046
4-25-780	NEW	94-10-039	16-219-020	AMD	94-09-028	16-304-110	AMD	94-12-046
4-25-810	NEW	94-02-072	16-219-022	NEW-P	94-05-092	16-304-130	AMD-P	94-09-046
4-25-811	NEW	94-02-072	16-219-022	NEW	94-09-028	16-304-130	AMD-P	94-09-046
4-25-812	NEW	94-02-072	16-219-025	AMD-P	94-05-092	16-304-130	AMD	94-12-046
4-25-813	NEW	94-02-072	16-219-025	AMD	94-09-028	16-313-015	AMD-P	94-09-046
4-25-820	NEW	94-02-071	16-219-027	NEW-P	94-05-092	16-313-015	AMD	94-12-046
4-25-910	NEW-P	94-13-061	16-219-027	NEW	94-09-028	16-313-035	AMD-P	94-09-046
4-25-920	NEW	94-02-069	16-219-029	NEW-P	94-05-092	16-313-035	AMD	94-12-046
16-32-009	NEW-P	94-09-072	16-219-029	NEW	94-09-028	16-316-0901	AMD-P	94-09-046
16-32-009	NEW	94-12-053	16-219-030	REP-P	94-05-092	16-316-0901	AMD	94-12-046
16-32-010	REP-P	94-09-072	16-219-030	REP	94-09-028	16-316-105	AMD-P	94-09-046
16-32-010	REP	94-12-053	16-219-031	NEW	94-09-028	16-316-105	AMD	94-12-046
16-32-011	NEW-P	94-09-072	16-219-031	NEW	94-09-028	16-316-230	AMD-P	94-09-046
16-32-011	NEW	94-12-053	16-219-100	NEW-P	94-05-061	16-316-230	AMD	94-12-046
16-38-001	REP	94-05-009	16-219-100	NEW	94-08-035	16-316-350	AMD-P	94-09-046
16-38-010	REP	94-05-009	16-219-100	NEW	94-08-035	16-316-350	AMD	94-12-046
16-38-020	REP	94-05-009	16-219-105	NEW-P	94-05-061	16-316-350	AMD	94-12-046
16-54-035A	NEW-E	94-09-004	16-219-105	NEW	94-08-035	16-316-440	AMD-P	94-09-046
16-86-015	AMD	94-05-008	16-221-001	REP	94-03-024	16-316-440	AMD	94-12-046
16-103-001	AMD	94-05-040	16-221-010	REP	94-03-024	16-316-474	AMD-P	94-09-046
16-103-010	NEW-E	94-13-074	16-221-020	REP	94-03-024	16-316-474	AMD	94-12-046
16-103-010	NEW-P	94-14-034	16-221-030	REP	94-03-024	16-316-717	AMD-P	94-09-046
16-103-010	NEW-W	94-14-060	16-221-040	REP	94-03-024	16-316-717	AMD	94-12-046
16-103-020	NEW-E	94-13-074	16-223-001	REP	94-03-023	16-316-717	AMD	94-12-046
16-103-020	NEW-P	94-14-034	16-223-002	REP	94-03-023	16-316-727	AMD-P	94-09-046
16-103-020	NEW-W	94-14-060	16-223-002	REP	94-03-023	16-316-727	AMD	94-12-046
16-108-010	AMD-P	94-05-074	16-223-004	REP	94-03-023	16-316-800	AMD-P	94-09-046
16-108-010	AMD-W	94-07-038	16-223-005	REP	94-03-023	16-316-800	AMD	94-12-046
16-200-805	AMD-P	94-05-060	16-223-010	REP	94-03-023	16-316-820	AMD-P	94-09-046
16-200-805	AMD	94-08-034	16-223-020	REP	94-03-023	16-316-820	AMD	94-12-046
16-212-020	AMD-P	94-06-058	16-223-030	REP	94-03-023	16-316-830	AMD-P	94-09-046
			16-223-040	REP	94-03-023	16-316-830	AMD	94-12-046
			16-223-050	REP	94-03-023	16-324-640	REP-P	94-01-110
			16-223-060	REP	94-03-023	16-324-640	REP	94-11-070

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
16-400-210	AMD-E	94-04-091	16-620-380	AMD	94-13-070	51-04-018	AMD	94-05-058
16-400-210	AMD-P	94-13-041	16-620-400	NEW-P	94-10-075	51-04-020	AMD	94-05-058
16-403-145	AMD-P	94-05-050	16-620-400	NEW	94-13-070	51-04-025	AMD	94-05-058
16-403-145	AMD	94-07-133	16-620-410	NEW-P	94-10-075	51-04-030	AMD-W	94-05-102
16-403-150	AMD-P	94-05-050	16-620-410	NEW	94-13-070	51-04-030	PREP	94-12-015
16-403-150	AMD	94-07-133	16-675-010	AMD-P	94-09-054	51-04-060	AMD	94-05-058
16-403-290	AMD-P	94-05-050	16-675-010	AMD	94-12-035	51-11	PREP	94-12-017
16-403-290	AMD	94-07-133	16-675-029	NEW-P	94-09-054	51-11-0201	AMD	94-05-059
16-415-010	REP	94-03-026	16-675-029	NEW	94-12-035	51-11-0402	AMD	94-05-059
16-415-020	REP	94-03-026	16-675-030	AMD-P	94-09-054	51-11-0502	AMD-E	94-05-007
16-415-030	REP	94-03-026	16-675-030	AMD	94-12-035	51-11-0502	AMD	94-05-059
16-415-040	REP	94-03-026	16-675-039	NEW-P	94-09-054	51-11-0525	AMD	94-05-059
16-432-010	REP	94-03-025	16-675-039	NEW	94-12-035	51-11-0527	AMD	94-05-059
16-432-020	REP	94-03-025	16-675-040	AMD-P	94-09-054	51-11-0601	AMD	94-05-059
16-432-030	REP	94-03-025	16-675-040	AMD	94-12-035	51-11-0602	AMD	94-05-059
16-432-040	REP	94-03-025	16-678-001	REP	94-03-022	51-11-0603	AMD	94-05-059
16-432-050	REP	94-03-025	16-678-010	REP	94-03-022	51-11-0625	AMD	94-05-059
16-432-060	REP	94-03-025	16-680-001	REP	94-03-021	51-11-0626	AMD	94-05-059
16-432-070	REP	94-03-025	16-680-010	REP	94-03-021	51-11-0627	AMD	94-05-059
16-432-080	REP	94-03-025	16-680-015	REP	94-03-021	51-11-0628	AMD	94-05-059
16-432-090	REP	94-03-025	16-694-001	AMD-P	94-09-055	51-11-0629	AMD	94-05-059
16-432-100	REP	94-03-025	16-694-001	AMD	94-12-034	51-11-0630	AMD	94-05-059
16-432-110	REP	94-03-025	44-06	AMD	94-13-039	51-11-1006	AMD-E	94-05-007
16-432-120	REP	94-03-025	44-06-010	AMD-P	94-06-050	51-11-1006	AMD	94-05-059
16-432-130	REP	94-03-025	44-06-010	AMD	94-13-039	51-11-1011	NEW-E	94-05-007
16-470-92005	NEW-C	94-06-003	44-06-020	AMD-P	94-06-050	51-13	PREP	94-12-016
16-470-92005	NEW-W	94-06-051	44-06-020	AMD	94-13-039	55-01-010	AMD-E	94-06-032
16-470-92010	NEW-C	94-06-003	44-06-030	AMD-P	94-06-050	55-01-010	AMD-W	94-07-075
16-470-92010	NEW-W	94-06-051	44-06-030	AMD	94-13-039	55-01-010	AMD-E	94-14-017
16-470-92015	NEW-C	94-06-003	44-06-040	AMD-P	94-06-050	55-01-020	AMD-E	94-06-032
16-470-92015	NEW-W	94-06-051	44-06-040	AMD	94-13-039	55-01-020	AMD-W	94-07-075
16-470-92020	NEW-C	94-06-003	44-06-050	AMD-P	94-06-050	55-01-020	AMD-E	94-14-017
16-470-92020	NEW-W	94-06-051	44-06-050	AMD	94-13-039	55-01-030	AMD-E	94-06-032
16-470-92025	NEW-C	94-06-003	44-06-060	AMD-P	94-06-050	55-01-030	AMD-W	94-07-075
16-470-92025	NEW-W	94-06-051	44-06-060	AMD	94-13-039	55-01-030	AMD-E	94-14-017
16-470-92030	NEW-C	94-06-003	44-06-070	AMD-P	94-06-050	55-01-040	AMD-E	94-06-032
16-470-92030	NEW-W	94-06-051	44-06-070	AMD	94-13-039	55-01-040	AMD-W	94-07-075
16-470-92035	NEW-C	94-06-003	44-06-080	AMD-P	94-06-050	55-01-040	AMD-E	94-14-017
16-470-92035	NEW-W	94-06-051	44-06-080	AMD	94-13-039	55-01-050	AMD-E	94-06-032
16-470-92040	NEW-C	94-06-003	44-06-085	NEW-P	94-06-050	55-01-050	AMD-W	94-07-075
16-470-92040	NEW-W	94-06-051	44-06-085	NEW	94-13-039	55-01-050	AMD-E	94-14-017
16-482-016	AMD-P	94-01-111	44-06-090	AMD-P	94-06-050	55-01-060	AMD-E	94-06-032
16-482-016	AMD	94-11-069	44-06-090	AMD	94-13-039	55-01-060	AMD-W	94-07-075
16-514-020	AMD-P	94-05-073	44-06-110	AMD-P	94-06-050	55-01-060	AMD-E	94-14-017
16-514-020	AMD	94-08-091	44-06-110	AMD	94-13-039	55-01-070	AMD-E	94-06-032
16-580-040	AMD-P	94-05-066	44-06-120	AMD-P	94-06-050	55-01-070	AMD-W	94-07-075
16-580-040	AMD	94-08-090	44-06-120	AMD	94-13-039	55-01-070	AMD-E	94-14-017
16-602-025	NEW	94-05-049	44-06-130	AMD-P	94-06-050	55-01-080	AMD-W	94-07-075
16-602-027	NEW-P	94-09-052	44-06-140	AMD-P	94-06-050	67-35-030	AMD-P	94-07-067
16-602-027	NEW	94-12-045	44-06-140	AMD	94-13-039	67-35-030	AMD	94-11-054
16-604-008	NEW-P	94-10-074	44-06-150	NEW-P	94-06-050	67-35-230	AMD-P	94-07-067
16-604-008	NEW	94-13-069	44-06-150	NEW	94-13-039	67-35-230	AMD-W	94-11-053
16-604-010	AMD-P	94-10-074	44-06-160	NEW-P	94-06-050	67-35-230	AMD-P	94-12-072
16-604-010	AMD	94-13-069	44-06-160	NEW	94-13-039	82-50-021	AMD-P	94-10-055
16-604-012	NEW-P	94-10-074	50-60-010	NEW	94-03-009	82-50-021	AMD	94-13-097
16-604-012	NEW	94-13-069	50-60-020	NEW	94-03-009	106-116-011	AMD-P	94-07-090
16-605A-001	NEW-P	94-10-076	50-60-030	NEW	94-03-009	106-116-011	AMD-E	94-07-091
16-605A-001	NEW	94-13-068	50-60-040	NEW	94-03-009	106-116-011	AMD	94-10-049
16-605A-010	NEW-P	94-10-076	50-60-050	NEW	94-03-009	106-116-040	AMD-P	94-07-090
16-605A-010	NEW	94-13-068	50-60-060	NEW	94-03-009	106-116-040	AMD-E	94-07-091
16-620-010	AMD-P	94-10-075	50-60-070	NEW	94-03-009	106-116-040	AMD	94-10-049
16-620-010	AMD	94-13-070	50-60-080	NEW	94-03-009	106-116-042	AMD-P	94-07-090
16-620-015	NEW-P	94-10-075	50-60-090	NEW	94-03-009	106-116-042	AMD-E	94-07-091
16-620-015	NEW	94-13-070	50-60-100	NEW	94-03-009	106-116-042	AMD	94-10-049
16-620-270	REP-P	94-10-075	50-60-110	NEW	94-03-009	106-116-103	AMD-P	94-07-090
16-620-270	REP	94-13-070	50-60-120	NEW	94-03-009	106-116-103	AMD-E	94-07-091
16-620-280	AMD-P	94-10-075	50-60-130	NEW	94-03-009	106-116-103	AMD	94-10-049
16-620-280	AMD	94-13-070	50-60-140	NEW	94-03-009	106-116-10401	AMD-P	94-07-090
16-620-290	AMD-P	94-10-075	50-60-150	NEW	94-03-009	106-116-10401	AMD-E	94-07-091
16-620-290	AMD	94-13-070	50-60-160	NEW	94-03-009	106-116-10401	AMD	94-10-049
16-620-340	AMD-P	94-10-075	50-60-170	NEW	94-03-009	106-116-201	AMD-P	94-07-090
16-620-340	AMD	94-13-070	50-60-180	NEW	94-03-009	106-116-201	AMD-E	94-07-091
16-620-380	AMD-P	94-10-075	51-04-015	AMD	94-05-058	106-116-201	AMD	94-10-049

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
106-116-202	AMD-P	94-07-090	106-116-601	AMD-E	94-07-091	132F-08-450	REP-P	94-05-097A
106-116-202	AMD-E	94-07-091	106-116-601	AMD	94-10-049	132F-08-460	REP-P	94-05-097A
106-116-202	AMD	94-10-049	106-116-603	AMD-P	94-07-090	132F-08-470	REP-P	94-05-097A
106-116-203	AMD-P	94-07-090	106-116-603	AMD-E	94-07-091	132F-08-480	REP-P	94-05-097A
106-116-203	AMD-E	94-07-091	106-116-603	AMD	94-10-049	132F-104-030	AMD-P	94-05-097A
106-116-203	AMD	94-10-049	106-116-701	AMD-P	94-07-090	132F-104-811	AMD-P	94-05-097A
106-116-204	AMD-P	94-07-090	106-116-701	AMD-E	94-07-091	132F-104-813	AMD-P	94-05-097A
106-116-204	AMD-E	94-07-091	106-116-701	AMD	94-10-049	132F-104-815	AMD-P	94-05-097A
106-116-204	AMD	94-10-049	106-116-702	AMD-P	94-07-090	132F-104-819	AMD-P	94-05-097A
106-116-205	AMD-P	94-07-090	106-116-702	AMD-E	94-07-091	132F-108-010	NEW-P	94-05-097A
106-116-205	AMD-E	94-07-091	106-116-702	AMD	94-10-049	132F-108-020	NEW-P	94-05-097A
106-116-205	AMD	94-10-049	106-116-853	AMD-P	94-07-090	132F-108-030	NEW-P	94-05-097A
106-116-207	AMD-P	94-07-090	106-116-853	AMD-E	94-07-091	132F-108-040	NEW-P	94-05-097A
106-116-207	AMD-E	94-07-091	106-116-853	AMD	94-10-049	132F-108-050	NEW-P	94-05-097A
106-116-207	AMD	94-10-049	106-116-901	AMD-P	94-07-090	132F-108-060	NEW-P	94-05-097A
106-116-208	AMD-P	94-07-090	106-116-901	AMD-E	94-07-091	132F-108-070	NEW-P	94-05-097A
106-116-208	AMD-E	94-07-091	106-116-901	AMD	94-10-049	132F-108-080	NEW-P	94-05-097A
106-116-208	AMD	94-10-049	131-46-010	AMD	94-04-120	132F-108-090	NEW-P	94-05-097A
106-116-212	AMD-P	94-07-090	131-46-020	AMD	94-04-120	132F-108-100	NEW-P	94-05-097A
106-116-212	AMD-E	94-07-091	131-46-025	AMD	94-04-120	132F-108-110	NEW-P	94-05-097A
106-116-212	AMD	94-10-049	131-46-027	NEW	94-04-120	132F-108-120	NEW-P	94-05-097A
106-116-213	AMD-P	94-07-090	131-46-029	NEW	94-04-120	132F-108-130	NEW-P	94-05-097A
106-116-213	AMD-E	94-07-091	131-46-030	AMD	94-04-120	132F-108-140	NEW-P	94-05-097A
106-116-213	AMD	94-10-049	131-46-035	AMD	94-04-120	132H-160-040	REP	94-04-098
106-116-301	AMD-P	94-07-090	131-46-040	AMD	94-04-120	132H-160-050	REP	94-04-098
106-116-301	AMD-E	94-07-091	131-46-045	AMD	94-04-120	132H-160-056	REP	94-04-098
106-116-301	AMD	94-10-049	131-46-050	AMD	94-04-120	132H-160-059	REP	94-04-098
106-116-303	AMD-P	94-07-090	131-46-055	AMD	94-04-120	132H-160-070	REP	94-04-098
106-116-303	AMD-E	94-07-091	131-46-060	AMD	94-04-120	132H-160-080	REP	94-04-098
106-116-303	AMD	94-10-049	131-46-065	AMD	94-04-120	132H-160-120	REP	94-04-098
106-116-304	AMD-P	94-07-090	131-46-070	AMD	94-04-120	132H-160-140	REP	94-04-098
106-116-304	AMD-E	94-07-091	131-46-075	AMD	94-04-120	132H-160-150	REP	94-04-098
106-116-304	AMD	94-10-049	131-46-077	NEW	94-04-120	132H-160-260	REP	94-04-098
106-116-305	AMD-P	94-07-090	131-46-080	AMD	94-04-120	132H-160-320	REP	94-04-098
106-116-305	AMD-E	94-07-091	131-46-085	AMD	94-04-120	132H-160-330	REP	94-04-098
106-116-305	AMD	94-10-049	131-46-090	AMD	94-04-120	132H-160-350	REP	94-04-098
106-116-306	AMD-P	94-07-090	131-46-095	AMD	94-04-120	132H-160-390	REP	94-04-098
106-116-306	AMD-E	94-07-091	131-46-100	AMD	94-04-120	132H-160-400	REP	94-04-098
106-116-306	AMD	94-10-049	131-46-105	AMD	94-04-120	132H-160-430	REP	94-04-098
106-116-307	AMD-P	94-07-090	131-46-110	AMD	94-04-120	132H-160-440	REP	94-04-098
106-116-307	AMD-E	94-07-091	131-46-115	AMD	94-04-120	132H-160-492	REP	94-04-098
106-116-307	AMD	94-10-049	131-46-120	AMD	94-04-120	132H-160-520	REP	94-04-098
106-116-308	AMD-P	94-07-090	131-46-125	NEW	94-04-120	132H-160-600	REP	94-04-098
106-116-308	AMD-E	94-07-091	131-46-130	NEW	94-04-120	132H-160-610	REP	94-04-098
106-116-308	AMD	94-10-049	132F-08-001	REP-P	94-05-097A	132H-160-620	REP	94-04-098
106-116-310	AMD-P	94-07-090	132F-08-005	REP-P	94-05-097A	132H-160-630	REP	94-04-098
106-116-310	AMD-E	94-07-091	132F-08-010	REP-P	94-05-097A	132H-160-640	REP	94-04-098
106-116-310	AMD	94-10-049	132F-08-080	REP-P	94-05-097A	132H-160-650	REP	94-04-098
106-116-311	AMD-P	94-07-090	132F-08-090	REP-P	94-05-097A	132H-160-660	REP	94-04-098
106-116-311	AMD-E	94-07-091	132F-08-100	REP-P	94-05-097A	132H-160-670	REP	94-04-098
106-116-311	AMD	94-10-049	132F-08-110	REP-P	94-05-097A	132H-160-680	REP	94-04-098
106-116-403	AMD-P	94-07-090	132F-08-120	REP-P	94-05-097A	132H-160-690	REP	94-04-098
106-116-403	AMD-E	94-07-091	132F-08-130	REP-P	94-05-097A	132J-108-050	AMD	94-04-051
106-116-403	AMD	94-10-049	132F-08-140	REP-P	94-05-097A	132J-116-010	AMD	94-04-052
106-116-410	AMD-P	94-07-090	132F-08-230	REP-P	94-05-097A	132J-116-020	REP	94-04-052
106-116-410	AMD-E	94-07-091	132F-08-240	REP-P	94-05-097A	132J-116-021	NEW	94-04-052
106-116-410	AMD	94-10-049	132F-08-250	REP-P	94-05-097A	132J-116-040	AMD	94-04-052
106-116-501	AMD-P	94-07-090	132F-08-260	REP-P	94-05-097A	132J-116-050	AMD	94-04-052
106-116-501	AMD-E	94-07-091	132F-08-270	REP-P	94-05-097A	132J-116-060	AMD	94-04-052
106-116-501	AMD	94-10-049	132F-08-280	REP-P	94-05-097A	132J-116-070	REP	94-04-052
106-116-513	AMD-P	94-07-090	132F-08-290	REP-P	94-05-097A	132J-116-080	AMD	94-04-052
106-116-513	AMD-E	94-07-091	132F-08-300	REP-P	94-05-097A	132J-116-090	AMD	94-04-052
106-116-513	AMD	94-10-049	132F-08-310	REP-P	94-05-097A	132J-116-100	AMD	94-04-052
106-116-514	AMD-P	94-07-090	132F-08-320	REP-P	94-05-097A	132J-116-110	AMD	94-04-052
106-116-514	AMD-E	94-07-091	132F-08-330	REP-P	94-05-097A	132J-116-120	AMD	94-04-052
106-116-514	AMD	94-10-049	132F-08-340	REP-P	94-05-097A	132J-116-130	AMD	94-04-052
106-116-515	AMD-P	94-07-090	132F-08-350	REP-P	94-05-097A	132J-116-140	AMD	94-04-052
106-116-515	AMD-E	94-07-091	132F-08-360	REP-P	94-05-097A	132J-116-150	AMD	94-04-052
106-116-515	AMD	94-10-049	132F-08-400	REP-P	94-05-097A	132J-116-160	AMD	94-04-052
106-116-521	AMD-P	94-07-090	132F-08-410	REP-P	94-05-097A	132J-116-170	AMD	94-04-052
106-116-521	AMD-E	94-07-091	132F-08-420	REP-P	94-05-097A	132J-116-180	AMD	94-04-052
106-116-521	AMD	94-10-049	132F-08-430	REP-P	94-05-097A	132J-116-190	AMD	94-04-052
106-116-601	AMD-P	94-07-090	132F-08-440	REP-P	94-05-097A	132J-116-200	REP	94-04-052

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
132J-116-210	AMD	94-04-052	136-170-030	AMD-P	94-13-185	162-18-100	REP-W	94-04-087
132J-116-220	AMD	94-04-052	136-170-040	NEW-P	94-13-185	162-22-010	AMD-W	94-04-087
132J-116-240	AMD	94-04-052	136-180-040	AMD-P	94-06-031	162-22-020	AMD-W	94-04-087
132J-128-010	REP	94-04-053	136-180-040	AMD	94-10-021	162-22-030	REP-W	94-04-087
132J-128-020	REP	94-04-053	137-56-010	AMD	94-07-065	162-22-040	REP-W	94-04-087
132J-128-030	REP	94-04-053	137-56-015	AMD	94-07-065	162-22-050	AMD-W	94-04-087
132J-128-040	REP	94-04-053	137-56-030	AMD	94-07-065	162-22-060	AMD-W	94-04-087
132J-128-050	REP	94-04-053	137-56-040	AMD	94-07-065	162-22-070	AMD-W	94-04-087
132J-128-060	REP	94-04-053	137-56-050	AMD	94-07-065	162-22-080	AMD-W	94-04-087
132J-128-070	REP	94-04-053	137-56-060	AMD	94-07-065	162-22-090	AMD-W	94-04-087
132J-128-080	REP	94-04-053	137-56-070	AMD	94-07-065	162-22-100	AMD-W	94-04-087
132J-128-090	REP	94-04-053	137-56-080	AMD	94-07-065	162-26-010	AMD-W	94-04-087
132J-128-100	REP	94-04-053	137-56-090	AMD	94-07-065	162-26-020	AMD-W	94-04-087
132J-128-110	REP	94-04-053	137-56-095	AMD	94-07-065	162-26-030	AMD-W	94-04-087
132J-128-120	REP	94-04-053	137-56-100	AMD	94-07-065	162-26-040	AMD-W	94-04-087
132J-128-130	REP	94-04-053	137-56-110	AMD	94-07-065	162-26-050	AMD-W	94-04-087
132J-128-140	REP	94-04-053	137-56-120	AMD	94-07-065	162-26-060	AMD-W	94-04-087
132J-128-200	NEW	94-04-053	137-56-140	AMD	94-07-065	162-26-070	AMD-W	94-04-087
132J-128-210	NEW	94-04-053	137-56-150	AMD	94-07-065	162-26-080	AMD-W	94-04-087
132J-136-020	REP	94-04-054	137-56-160	AMD	94-07-065	162-26-090	AMD-W	94-04-087
132J-136-025	REP	94-04-054	137-56-170	AMD	94-07-065	162-26-100	AMD-W	94-04-087
132J-136-030	REP	94-04-054	137-56-175	NEW	94-07-065	162-26-110	AMD-W	94-04-087
132J-136-040	REP	94-04-054	137-56-180	AMD	94-07-065	162-26-120	AMD-W	94-04-087
132J-136-050	REP	94-04-054	137-56-190	REP	94-07-065	162-26-130	AMD-W	94-04-087
132R-190-010	AMD	94-07-019	137-56-200	AMD	94-07-065	162-26-140	AMD-W	94-04-087
132R-190-020	AMD	94-07-019	137-56-210	AMD	94-07-065	162-30-010	AMD-W	94-04-087
132R-190-030	AMD	94-07-019	137-56-220	AMD	94-07-065	162-30-020	AMD-W	94-04-087
132R-190-035	AMD	94-07-019	137-56-230	AMD	94-07-065	162-30-030	NEW-W	94-04-087
132R-190-040	AMD	94-07-019	137-56-240	AMD	94-07-065	162-30-035	NEW-W	94-04-087
132R-190-050	AMD	94-07-019	137-56-250	AMD	94-07-065	162-30-040	NEW-W	94-04-087
132R-190-060	AMD	94-07-019	148-120-010	NEW-P	94-08-066	162-30-050	NEW-W	94-04-087
132R-190-070	AMD	94-07-019	148-120-010	NEW	94-13-058	162-30-060	NEW-W	94-04-087
132R-190-080	AMD	94-07-019	148-120-015	NEW-P	94-08-066	162-30-070	NEW-W	94-04-087
132R-190-090	AMD	94-07-019	148-120-015	NEW	94-13-058	162-30-080	NEW-W	94-04-087
132R-190-100	AMD	94-07-019	148-120-100	NEW-P	94-08-066	162-30-090	NEW-W	94-04-087
132R-190-110	AMD	94-07-019	148-120-100	NEW	94-13-058	162-30-100	NEW-W	94-04-087
132V-300-020	AMD-W	94-03-082	148-120-120	NEW-P	94-08-066	173-19-100	AMD-P	94-03-093
132Y-125-004	AMD	94-03-010	148-120-120	NEW	94-13-058	173-19-120	AMD-P	94-03-092
136-130-040	AMD-P	94-06-028	148-120-200	NEW-P	94-08-066	173-19-120	AMD	94-10-081
136-130-040	AMD	94-10-022	148-120-200	NEW	94-13-058	173-19-2401	AMD-C	94-05-038
136-130-060	AMD-P	94-06-029	148-120-205	NEW-P	94-08-066	173-19-2401	AMD	94-07-013
136-130-060	AMD	94-10-020	148-120-205	NEW	94-13-058	173-19-2520	AMD-P	94-14-086
136-160-010	REP-P	94-13-182	148-120-210	NEW-P	94-08-066	173-19-2602	AMD-P	94-04-107
136-160-020	REP-P	94-13-182	148-120-210	NEW	94-13-058	173-19-2602	AMD	94-10-082
136-160-030	REP-P	94-13-182	148-120-220	NEW-P	94-08-066	173-19-3303	AMD-P	94-07-120
136-160-040	REP-P	94-13-182	148-120-220	NEW	94-13-058	173-19-3303	AMD	94-13-046
136-160-050	AMD-P	94-06-028	148-120-225	NEW-P	94-08-066	173-19-3506	AMD-W	94-07-074
136-160-050	AMD	94-10-022	148-120-225	NEW	94-13-058	173-19-3506	AMD-P	94-10-040
136-160-050	REP-P	94-13-182	148-120-230	NEW-P	94-08-066	173-19-3506	AMD	94-14-029
136-160-060	AMD-P	94-06-030	148-120-230	NEW	94-13-058	173-19-360	AMD-P	94-10-041
136-160-060	AMD	94-10-023	148-120-234	NEW-P	94-08-066	173-19-360	AMD	94-14-030
136-160-060	REP-P	94-13-182	148-120-234	NEW	94-13-058	173-19-390	AMD	94-03-095
136-160-065	REP-P	94-13-182	148-120-236	NEW-P	94-08-066	173-19-4203	AMD-P	94-07-119
136-161-010	NEW-P	94-13-182	148-120-236	NEW	94-13-058	173-19-4203	AMD	94-13-047
136-161-020	NEW-P	94-13-182	162-12-100	AMD-W	94-04-087	173-19-4205	AMD-P	94-03-094
136-161-030	NEW-P	94-13-182	162-12-110	REP-W	94-04-087	173-19-4205	AMD	94-10-080
136-161-040	NEW-P	94-13-182	162-12-120	AMD-W	94-04-087	173-34-010	REP-P	94-03-071
136-161-050	NEW-P	94-13-182	162-12-130	AMD-W	94-04-087	173-34-010	REP	94-07-078
136-161-060	NEW-P	94-13-182	162-12-135	AMD-W	94-04-087	173-34-020	REP-P	94-03-071
136-161-070	NEW-P	94-13-182	162-12-140	AMD-W	94-04-087	173-34-020	REP	94-07-078
136-161-080	NEW-P	94-13-182	162-12-150	AMD-W	94-04-087	173-34-030	REP-P	94-03-071
136-161-090	NEW-P	94-13-182	162-12-160	AMD-W	94-04-087	173-34-030	REP	94-07-078
136-161-100	NEW-P	94-13-182	162-12-170	AMD-W	94-04-087	173-34-030	REP	94-07-078
136-165-010	NEW-P	94-13-184	162-12-180	AMD-W	94-04-087	173-34-040	REP-P	94-03-071
136-165-020	NEW-P	94-13-184	162-12-180	AMD-W	94-04-087	173-34-040	REP	94-07-078
136-165-030	NEW-P	94-13-184	162-18-010	REP-W	94-04-087	173-34-050	REP-P	94-03-071
136-165-040	NEW-P	94-13-184	162-18-020	REP-W	94-04-087	173-34-050	REP	94-07-078
136-165-050	NEW-P	94-13-184	162-18-030	REP-W	94-04-087	173-58-010	AMD-P	94-05-037
136-167-010	NEW-P	94-13-183	162-18-040	REP-W	94-04-087	173-58-010	AMD	94-12-001
136-167-020	NEW-P	94-13-183	162-18-050	REP-W	94-04-087	173-58-020	AMD-P	94-05-037
136-167-030	NEW-P	94-13-183	162-18-060	REP-W	94-04-087	173-58-020	AMD	94-12-001
136-167-040	NEW-P	94-13-183	162-18-070	REP-W	94-04-087	173-58-090	AMD-P	94-05-037
136-170-010	AMD-P	94-13-185	162-18-080	REP-W	94-04-087	173-58-090	AMD	94-12-001
			162-18-090	REP-W	94-04-087	173-60-010	AMD-P	94-05-037

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
173-60-010	AMD	94-12-001	173-180B-120	NEW	94-10-083	173-402-020	REP	94-14-067
173-60-020	AMD-P	94-05-037	173-180B-130	NEW	94-10-083	173-422-020	AMD	94-05-039
173-60-020	AMD	94-12-001	173-180B-140	NEW	94-10-083	173-422-030	AMD	94-05-039
173-60-050	AMD-P	94-05-037	173-202-020	AMD-E	94-04-108	173-422-050	AMD	94-05-039
173-60-050	AMD	94-12-001	173-202-020	AMD-P	94-08-071	173-422-070	AMD	94-05-039
173-60-070	AMD-P	94-05-037	173-202-020	AMD-E	94-12-054	173-422-075	AMD	94-05-039
173-60-070	AMD	94-12-001	173-204	PREP	94-13-161	173-422-095	AMD	94-05-039
173-70-010	REP-P	94-05-037	173-224	AMD-C	94-05-082	173-422-130	AMD	94-05-039
173-70-010	REP	94-12-001	173-224-020	AMD-P	94-02-080	173-422-140	REP	94-05-039
173-70-020	REP-P	94-05-037	173-224-020	AMD	94-10-027	173-422-160	AMD	94-05-039
173-70-020	REP	94-12-001	173-224-030	AMD-P	94-02-080	173-422-170	AMD	94-05-039
173-70-030	REP-P	94-05-037	173-224-030	AMD	94-10-027	173-440-010	REP-P	94-10-078
173-70-030	REP	94-12-001	173-224-040	AMD-P	94-02-080	173-440-010	REP	94-14-067
173-70-040	REP-P	94-05-037	173-224-040	AMD	94-10-027	173-440-020	REP-P	94-10-078
173-70-040	REP	94-12-001	173-224-050	AMD-P	94-02-080	173-440-020	REP	94-14-067
173-70-050	REP-P	94-05-037	173-224-050	AMD	94-10-027	173-440-030	REP-P	94-10-078
173-70-050	REP	94-12-001	173-224-070	REP-P	94-02-080	173-440-030	REP	94-14-067
173-70-060	REP-P	94-05-037	173-224-090	AMD-P	94-02-080	173-440-040	REP-P	94-10-078
173-70-060	REP	94-12-001	173-224-090	AMD	94-10-027	173-440-040	REP	94-14-067
173-70-070	REP-P	94-05-037	173-224-100	AMD-P	94-02-080	173-440-100	REP-P	94-10-078
173-70-070	REP	94-12-001	173-224-100	AMD	94-10-027	173-440-100	REP	94-14-067
173-70-080	REP-P	94-05-037	173-224-120	REP-P	94-02-080	173-440-900	REP-P	94-10-078
173-70-080	REP	94-12-001	173-303	AMD-C	94-08-092	173-440-900	REP	94-14-067
173-70-090	REP-P	94-05-037	173-303-071	AMD	94-12-018	173-460-020	AMD	94-03-072
173-70-090	REP	94-12-001	173-303-104	AMD	94-12-018	173-460-030	AMD	94-03-072
173-70-100	REP-P	94-05-037	173-320-010	REP-P	94-03-071	173-460-040	AMD	94-03-072
173-70-100	REP	94-12-001	173-320-010	REP	94-07-078	173-460-050	AMD	94-03-072
173-70-110	REP-P	94-05-037	173-320-020	REP-P	94-03-071	173-460-060	AMD	94-03-072
173-70-110	REP	94-12-001	173-320-020	REP	94-07-078	173-460-080	AMD	94-03-072
173-70-120	REP-P	94-05-037	173-320-030	REP-P	94-03-071	173-460-090	AMD	94-03-072
173-70-120	REP	94-12-001	173-320-030	REP	94-07-078	173-460-100	AMD	94-03-072
173-95-010	REP	94-04-030	173-320-040	REP-P	94-03-071	173-460-110	AMD	94-03-072
173-95-020	REP	94-04-030	173-320-040	REP	94-07-078	173-460-150	AMD	94-03-072
173-95-030	REP	94-04-030	173-320-050	REP-P	94-03-071	173-460-160	AMD	94-03-072
173-95-040	REP	94-04-030	173-320-050	REP	94-07-078	173-492-070	AMD	94-07-040
173-95-050	REP	94-04-030	173-320-060	REP-P	94-03-071	173-563-090	PREP	94-13-162
173-95-060	REP	94-04-030	173-320-060	REP	94-07-078	173-563-015	AMD-P	94-14-085
173-95-070	REP	94-04-030	173-320-070	REP-P	94-03-071	173-564-040	AMD-P	94-14-085
173-95-080	REP	94-04-030	173-320-070	REP	94-07-078	180-16-200	AMD	94-03-104
173-95-090	REP	94-04-030	173-320-080	REP-P	94-03-071	180-24-310	AMD-P	94-08-103
173-95-100	REP	94-04-030	173-320-080	REP	94-07-078	180-24-310	AMD	94-13-018
173-95-110	REP	94-04-030	173-320-080	REP	94-07-078	180-24-312	AMD-P	94-08-103
173-95-120	REP	94-04-030	173-335-010	REP-P	94-03-071	180-24-312	AMD	94-13-018
173-95-130	REP	94-04-030	173-335-010	REP	94-07-078	180-24-315	AMD-P	94-08-103
173-95-140	REP	94-04-030	173-335-020	REP-P	94-03-071	180-24-315	AMD	94-13-018
173-95-150	REP	94-04-030	173-335-020	REP	94-07-078	180-24-315	AMD	94-13-018
173-95-160	REP	94-04-030	173-335-030	REP-P	94-03-071	180-24-320	AMD-P	94-08-103
173-180A-010	NEW	94-10-084	173-335-030	REP	94-07-078	180-24-320	AMD	94-13-018
173-180A-020	NEW	94-10-084	173-335-040	REP-P	94-03-071	180-24-325	AMD-P	94-08-103
173-180A-030	NEW	94-10-084	173-335-040	REP	94-07-078	180-24-325	AMD	94-13-018
173-180A-040	NEW	94-10-084	173-335-050	REP-P	94-03-071	180-24-355	AMD-P	94-08-103
173-180A-050	NEW	94-10-084	173-335-050	REP	94-07-078	180-24-355	AMD	94-13-018
173-180A-060	NEW	94-10-084	173-400	NEW-C	94-08-072	180-29-130	AMD-P	94-08-104
173-180A-070	NEW	94-10-084	173-400	NEW-C	94-10-079	180-29-130	AMD	94-13-019
173-180A-080	NEW	94-10-084	173-400-045	NEW-P	94-04-106	180-29-135	AMD-P	94-05-088
173-180A-090	NEW	94-10-084	173-400-101	NEW-P	94-04-105	180-29-135	AMD-C	94-08-068
173-180A-100	NEW	94-10-084	173-400-101	NEW	94-10-042	180-29-135	AMD	94-14-028
173-180A-110	NEW	94-10-084	173-400-116	NEW-P	94-04-106	180-29-147	NEW-P	94-05-088
173-180A-120	NEW	94-10-084	173-401	AMD-C	94-08-073	180-29-147	NEW-C	94-08-068
173-180A-130	NEW	94-10-084	173-401-200	AMD-P	94-04-104	180-29-147	NEW	94-14-028
173-180A-140	NEW	94-10-084	173-401-200	AMD	94-11-105	180-29-170	AMD-P	94-05-088
173-180A-150	NEW	94-10-084	173-401-510	AMD-P	94-04-104	180-29-170	AMD-C	94-08-068
173-180B-010	NEW	94-10-083	173-401-510	AMD	94-11-105	180-29-170	AMD	94-14-028
173-180B-020	NEW	94-10-083	173-401-530	NEW-P	94-04-104	180-33-025	AMD-P	94-08-105
173-180B-030	NEW	94-10-083	173-401-530	NEW	94-11-105	180-33-025	AMD	94-13-020
173-180B-040	NEW	94-10-083	173-401-531	NEW-P	94-04-104	180-40-235	AMD	94-03-102
173-180B-050	NEW	94-10-083	173-401-531	NEW	94-11-105	180-50-115	AMD	94-03-104
173-180B-060	NEW	94-10-083	173-401-532	NEW-P	94-04-104	180-50-120	AMD	94-03-104
173-180B-070	NEW	94-10-083	173-401-532	NEW	94-11-105	180-51-050	AMD	94-03-100
173-180B-080	NEW	94-10-083	173-401-533	NEW-P	94-04-104	180-51-050	AMD-P	94-08-067
173-180B-090	NEW	94-10-083	173-401-533	NEW	94-11-105	180-51-050	AMD	94-13-017
173-180B-100	NEW	94-10-083	173-402-010	REP-P	94-10-078	180-51-075	AMD	94-03-104
173-180B-110	NEW	94-10-083	173-402-010	REP	94-14-067	180-51-105	AMD	94-03-103
			173-402-020	REP-P	94-10-078	180-78-266	NEW-P	94-05-034

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
180-78-266	NEW	94-08-055	194-22-010	PREP	94-08-070	220-20-051	AMD-P	94-11-005
180-79-241	AMD-P	94-08-106	194-22-010	NEW-P	94-11-128	220-20-05100A	REP-E	94-11-006
180-79-241	AMD	94-13-021	194-22-020	PREP	94-08-070	220-20-05100B	NEW-E	94-11-006
180-95-010	AMD	94-03-103	194-22-020	NEW-P	94-11-128	220-20-065	NEW-P	94-11-005
180-95-020	AMD	94-03-103	194-22-030	PREP	94-08-070	220-20-06500A	REP-E	94-11-006
180-95-030	AMD	94-03-103	194-22-030	NEW-P	94-11-128	220-20-06500B	NEW-E	94-11-006
180-95-040	AMD	94-03-103	194-22-040	PREP	94-08-070	220-22-030	AMD-P	94-09-071
180-95-050	AMD	94-03-103	194-22-040	NEW-P	94-11-128	220-32-05100E	NEW-E	94-04-048
180-95-060	AMD	94-03-103	194-22-050	PREP	94-08-070	220-32-05500F	NEW-E	94-09-022
180-96-005	AMD	94-03-101	194-22-050	NEW-P	94-11-128	220-32-05500G	REP-E	94-13-016
180-96-010	AMD	94-03-101	194-22-060	PREP	94-08-070	220-32-05500H	NEW-E	94-11-106
180-96-015	REP	94-03-101	194-22-060	NEW-P	94-11-128	220-32-05500I	NEW-E	94-13-016
180-96-025	REP	94-03-101	194-22-070	PREP	94-08-070	220-32-05500J	REP-E	94-14-036
180-96-030	REP	94-03-101	194-22-070	NEW-P	94-11-128	220-32-05500K	NEW-E	94-14-036
180-96-035	AMD	94-03-101	194-22-080	PREP	94-08-070	220-33-01000L	NEW-E	94-04-101
180-96-045	AMD	94-03-101	194-22-080	NEW-P	94-11-128	220-33-01000M	REP-E	94-06-042
180-96-048	NEW	94-03-101	194-22-090	PREP	94-08-070	220-33-01000N	NEW-E	94-06-042
180-96-050	AMD	94-03-101	194-22-090	NEW-P	94-11-128	220-33-01000O	REP-E	94-07-009
180-96-053	NEW	94-03-101	194-22-100	PREP	94-08-070	220-33-01000P	NEW-E	94-07-009
180-96-055	REP	94-03-101	194-22-100	NEW-P	94-11-128	220-33-03000G	NEW-E	94-11-107
180-96-058	NEW	94-03-101	194-22-110	PREP	94-08-070	220-33-03000H	REP-E	94-13-121
180-96-060	REP	94-03-101	194-22-110	NEW-P	94-11-128	220-33-03000I	NEW-E	94-13-121
180-96-065	REP	94-03-101	194-22-120	PREP	94-08-070	220-33-03000J	REP-E	94-14-020
180-96-070	REP	94-03-101	194-22-120	NEW-P	94-11-128	220-33-03000K	NEW-E	94-14-020
180-96-075	REP	94-03-101	194-22-130	PREP	94-08-070	220-33-060	AMD-P	94-03-106
182-12-110	AMD-E	94-08-027	194-22-130	NEW-P	94-11-128	220-33-060	AMD-C	94-12-007
182-12-111	AMD-E	94-08-027	194-22-140	PREP	94-08-070	220-33-060	AMD	94-12-009
182-12-115	AMD-E	94-08-027	194-22-140	NEW-P	94-11-128	220-36-021	AMD-P	94-09-070
182-12-122	AMD-E	94-08-027	194-22-150	PREP	94-08-070	220-36-021	AMD	94-13-014
182-14-010	NEW-E	94-08-028	194-22-150	NEW-P	94-11-128	220-36-023	AMD-P	94-09-070
182-14-020	NEW-E	94-08-028	194-22-160	PREP	94-08-070	220-36-023	AMD	94-13-014
182-14-030	NEW-E	94-08-028	194-22-160	NEW-P	94-11-128	220-40-021	AMD-P	94-09-070
182-14-040	NEW-E	94-08-028	194-22-170	PREP	94-08-070	220-40-021	AMD	94-13-014
182-14-050	NEW-E	94-08-028	194-22-170	NEW-P	94-11-128	220-40-027	AMD-P	94-09-070
182-14-060	NEW-E	94-08-028	194-22-180	PREP	94-08-070	220-40-027	AMD-C	94-13-013
182-14-070	NEW-E	94-08-028	194-22-180	NEW-P	94-11-128	220-44-020	AMD-P	94-03-106
182-14-080	NEW-E	94-08-028	194-22-190	PREP	94-08-070	220-44-020	AMD-C	94-12-007
182-14-090	NEW-E	94-08-028	194-22-190	NEW-P	94-11-128	220-44-020	AMD	94-12-009
182-14-100	NEW-E	94-08-028	197-11-225	NEW-E	94-12-032	220-44-030	AMD-P	94-03-106
192-10-320	PREP	94-14-061	197-11-228	NEW-E	94-12-032	220-44-030	AMD-C	94-12-007
192-12-030	PREP	94-14-061	197-11-230	NEW-E	94-12-032	220-44-030	AMD	94-12-009
192-12-150	PREP	94-14-061	197-11-232	NEW-E	94-12-032	220-44-04000E	NEW-E	94-11-074
192-16-036	PREP	94-14-061	197-11-235	NEW-E	94-12-032	220-44-050	AMD-P	94-10-073
192-16-040	PREP	94-14-061	204-24-050	AMD-E	94-02-081	220-44-050	AMD	94-13-077
192-16-042	PREP	94-14-061	204-24-050	AMD-P	94-02-082	220-44-05000I	REP-E	94-05-003
192-16-045	PREP	94-14-061	204-24-050	AMD	94-08-069	220-44-05000J	NEW-E	94-05-003
192-16-047	PREP	94-14-061	204-30-010	REP	94-05-024	220-44-05000K	REP-E	94-14-071
192-23-320	PREP	94-14-061	204-30-020	REP	94-05-024	220-44-05000L	NEW-E	94-14-071
192-28-145	AMD-P	94-04-124	204-30-030	REP	94-05-024	220-44-090	NEW-P	94-03-106
192-28-145	AMD	94-10-044	204-30-040	REP	94-05-024	220-44-090	NEW-C	94-12-007
192-34-010	NEW	94-07-115	204-30-050	REP	94-05-024	220-44-090	NEW	94-12-009
192-34-015	NEW	94-07-115	204-30-060	REP	94-05-024	220-44-09000C	NEW-E	94-11-073
192-34-020	NEW	94-07-115	204-30-070	REP	94-05-024	220-44-09000D	REP-E	94-13-015
192-34-025	NEW	94-07-115	204-30-080	REP	94-05-024	220-44-09000E	NEW-E	94-13-015
194-20-010	PREP	94-08-070	204-91A-170	PREP	94-13-078	220-47-304	AMD-P	94-09-071
194-20-020	PREP	94-08-070	208-04-010	NEW	94-09-010	220-47-307	AMD-P	94-09-071
194-20-030	PREP	94-08-070	208-04-020	NEW	94-09-010	220-47-311	AMD-P	94-09-071
194-20-040	PREP	94-08-070	208-04-030	NEW	94-09-010	220-47-401	AMD-P	94-09-071
194-20-050	PREP	94-08-070	220-12-02000B	NEW-E	94-07-052	220-47-411	AMD-P	94-09-071
194-20-060	PREP	94-08-070	220-16	AMD-C	94-14-068	220-47-412	AMD-P	94-09-071
194-20-070	PREP	94-08-070	220-16-015	AMD-P	94-03-106	220-48-001	AMD-P	94-03-106
194-20-080	PREP	94-08-070	220-16-015	AMD-C	94-12-007	220-48-001	AMD-C	94-12-007
194-20-090	PREP	94-08-070	220-16-015	AMD	94-12-009	220-48-001	AMD	94-12-009
194-20-100	PREP	94-08-070	220-16-460	NEW-P	94-03-105	220-48-005	AMD-P	94-03-106
194-20-110	PREP	94-08-070	220-16-460	NEW	94-14-069	220-48-005	AMD-C	94-12-007
194-20-120	PREP	94-08-070	220-16-46000A	NEW-E	94-10-043	220-48-005	AMD	94-12-009
194-20-130	PREP	94-08-070	220-20-021	AMD-P	94-03-106	220-48-011	AMD-P	94-03-106
194-20-140	PREP	94-08-070	220-20-021	AMD-C	94-12-007	220-48-011	AMD-C	94-12-007
194-20-150	PREP	94-08-070	220-20-021	AMD	94-12-009	220-48-011	AMD	94-12-009
194-20-160	PREP	94-08-070	220-20-025	AMD-P	94-03-106	220-48-015	AMD-P	94-03-106
194-20-170	PREP	94-08-070	220-20-025	AMD-C	94-12-007	220-48-015	AMD-C	94-12-007
194-20-180	PREP	94-08-070	220-20-025	AMD	94-12-009	220-48-015	AMD	94-12-009
194-20-190	PREP	94-08-070	220-20-02500B	NEW-E	94-05-002	220-48-015	AMD-P	94-13-064

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
220-48-016	NEW-P	94-03-106	220-49-026	REP	94-12-009	220-52-070	AMD-P	94-03-106
220-48-016	NEW-C	94-12-007	220-49-055	REP-P	94-03-106	220-52-070	AMD-C	94-12-007
220-48-016	NEW	94-12-009	220-49-055	REP-C	94-12-007	220-52-070	AMD	94-12-009
220-48-017	AMD-P	94-03-106	220-49-055	REP	94-12-009	220-52-071	AMD-P	94-03-106
220-48-017	AMD-C	94-12-007	220-49-056	AMD-P	94-03-106	220-52-071	AMD-C	94-12-007
220-48-017	AMD	94-12-009	220-49-056	AMD-C	94-12-007	220-52-071	AMD	94-12-009
220-48-019	AMD-P	94-03-106	220-49-056	AMD	94-12-009	220-52-07100P	NEW-E	94-10-037
220-48-019	AMD-C	94-12-007	220-49-057	AMD-P	94-03-106	220-52-07100P	REP-E	94-13-040
220-48-019	AMD	94-12-009	220-49-057	AMD-C	94-12-007	220-52-07100Q	NEW-E	94-13-040
220-48-028	AMD-P	94-03-106	220-49-057	AMD	94-12-009	220-52-07100Q	REP-E	94-13-136
220-48-028	AMD-C	94-12-007	220-49-063	AMD-P	94-03-106	220-52-07100R	NEW-E	94-13-136
220-48-028	AMD	94-12-009	220-49-063	AMD-C	94-12-007	220-52-07100R	REP-E	94-14-042
220-48-031	AMD-P	94-03-106	220-49-063	AMD	94-12-009	220-52-07100S	NEW-E	94-14-042
220-48-031	AMD-C	94-12-007	220-49-06300A	NEW-E	94-07-063	220-52-073	AMD-P	94-03-106
220-48-031	AMD	94-12-009	220-49-06300A	REP-E	94-07-077	220-52-073	AMD-C	94-12-007
220-48-041	AMD-P	94-03-106	220-49-06300B	NEW-E	94-07-077	220-52-073	AMD	94-12-009
220-48-041	AMD-C	94-12-007	220-49-064	AMD-P	94-03-106	220-52-07300R	REP-E	94-03-063
220-48-041	AMD	94-12-009	220-49-064	AMD-C	94-12-007	220-52-07300S	NEW-E	94-03-063
220-48-051	AMD-P	94-03-106	220-49-064	AMD	94-12-009	220-52-07300S	REP-E	94-05-055
220-48-051	AMD-C	94-12-007	220-49-06400A	NEW-E	94-07-063	220-52-07300T	NEW-E	94-05-055
220-48-051	AMD	94-12-009	220-49-06400A	REP-E	94-07-077	220-52-075	AMD-P	94-03-106
220-48-061	AMD-P	94-03-106	220-49-06400A	REP-E	94-07-077	220-52-075	AMD-C	94-12-007
220-48-061	AMD-C	94-12-007	220-49-06400B	NEW-E	94-07-077	220-52-075	AMD	94-12-009
220-48-061	AMD	94-12-009	220-52-010	AMD-P	94-03-106	220-52-075	AMD	94-12-009
220-48-061	AMD	94-12-009	220-52-010	AMD-C	94-12-007	220-55-00100B	NEW-E	94-13-049
220-48-071	AMD-P	94-03-106	220-52-010	AMD	94-12-009	220-55-015	AMD-P	94-11-005
220-48-071	AMD-C	94-12-007	220-52-018	AMD-P	94-03-106	220-55-01500A	REP-E	94-11-006
220-48-071	AMD	94-12-009	220-52-018	AMD-C	94-12-007	220-55-01500B	NEW-E	94-11-006
220-49-005	NEW-P	94-03-106	220-52-018	AMD	94-12-009	220-55-155	NEW-P	94-11-005
220-49-005	NEW-C	94-12-007	220-52-019	AMD-P	94-03-106	220-55-15500A	REP-E	94-11-006
220-49-005	NEW	94-12-009	220-52-019	AMD-C	94-12-007	220-55-15500B	NEW-E	94-11-006
220-49-011	AMD-P	94-03-106	220-52-019	AMD	94-12-009	220-56	AMD-C	94-14-068
220-49-011	AMD-C	94-12-007	220-52-01901	AMD-P	94-03-106	220-56-100	AMD-P	94-03-105
220-49-011	AMD	94-12-009	220-52-01901	AMD-C	94-12-007	220-56-100	AMD	94-14-069
220-49-012	AMD-P	94-03-106	220-52-01901	AMD	94-12-009	220-56-10000A	NEW-E	94-10-043
220-49-012	AMD-C	94-12-007	220-52-020	AMD-P	94-03-106	220-56-105	AMD-P	94-03-105
220-49-012	AMD	94-12-009	220-52-020	AMD-C	94-12-007	220-56-105	AMD	94-14-069
220-49-013	AMD-P	94-03-106	220-52-020	AMD	94-12-009	220-56-10500C	NEW-E	94-08-014
220-49-013	AMD-C	94-12-007	220-52-030	AMD-P	94-03-106	220-56-10500C	REP-E	94-10-036
220-49-013	AMD	94-12-009	220-52-030	AMD-C	94-12-007	220-56-11500A	NEW-E	94-10-043
220-49-014	AMD-P	94-03-106	220-52-030	AMD	94-12-009	220-56-123	NEW-P	94-03-105
220-49-014	AMD-C	94-12-007	220-52-040	AMD-P	94-03-106	220-56-123	NEW	94-14-069
220-49-014	AMD	94-12-009	220-52-040	AMD-C	94-12-007	220-56-124	AMD-P	94-03-105
220-49-015	REP-P	94-03-106	220-52-040	AMD	94-12-009	220-56-124	AMD	94-14-069
220-49-015	REP-C	94-12-007	220-52-043	AMD-P	94-03-106	220-56-128	AMD-P	94-03-105
220-49-015	REP	94-12-009	220-52-043	AMD-C	94-12-007	220-56-128	AMD	94-14-069
220-49-016	REP-P	94-03-106	220-52-043	AMD	94-12-009	220-56-128001	NEW-E	94-10-043
220-49-016	REP-C	94-12-007	220-52-046	AMD-P	94-03-106	220-56-190	AMD-P	94-03-105
220-49-016	REP	94-12-009	220-52-046	AMD-C	94-12-007	220-56-190	AMD	94-14-069
220-49-017	AMD-P	94-03-106	220-52-046	AMD	94-12-009	220-56-19000X	NEW-E	94-10-043
220-49-017	AMD-C	94-12-007	220-52-050	AMD-P	94-03-106	220-56-191	AMD-P	94-03-105
220-49-017	AMD	94-12-009	220-52-050	AMD-C	94-12-007	220-56-191	AMD	94-14-069
220-49-020	AMD-P	94-03-106	220-52-050	AMD	94-12-009	220-56-19100E	NEW-E	94-10-043
220-49-020	AMD-C	94-12-007	220-52-051	AMD-P	94-03-098	220-56-19100E	REP-E	94-14-062
220-49-020	AMD	94-12-009	220-52-051	AMD-P	94-03-106	220-56-19100F	NEW-E	94-14-062
220-49-02000F	NEW-E	94-04-047	220-52-051	AMD	94-07-092	220-56-195	AMD-P	94-03-105
220-49-02000G	NEW-E	94-09-021	220-52-051	AMD-C	94-12-007	220-56-195	AMD	94-14-069
220-49-021	AMD-P	94-03-106	220-52-051	AMD-W	94-12-061	220-56-235	AMD-P	94-03-105
220-49-021	AMD-C	94-12-007	220-52-05100Q	NEW-E	94-11-072	220-56-235	AMD	94-14-069
220-49-021	AMD	94-12-009	220-52-060	AMD-P	94-03-106	220-56-23500H	NEW-E	94-10-043
220-49-022	REP-P	94-03-106	220-52-060	AMD-C	94-12-007	220-56-240	AMD-P	94-03-105
220-49-022	REP-C	94-12-007	220-52-060	AMD	94-12-009	220-56-240	AMD	94-14-069
220-49-022	REP	94-12-009	220-52-063	AMD-P	94-03-106	220-56-245	AMD-P	94-03-105
220-49-023	AMD-P	94-03-106	220-52-063	AMD-C	94-12-007	220-56-245	AMD	94-14-069
220-49-023	AMD-C	94-12-007	220-52-063	AMD	94-12-009	220-56-24500M	NEW-E	94-10-043
220-49-023	AMD	94-12-009	220-52-066	AMD-P	94-03-106	220-56-255	AMD-P	94-03-105
220-49-024	AMD-P	94-03-106	220-52-066	AMD-C	94-12-007	220-56-255	AMD	94-14-069
220-49-024	AMD-C	94-12-007	220-52-066	AMD	94-12-009	220-56-25500U	NEW-E	94-10-043
220-49-024	AMD	94-12-009	220-52-068	AMD-P	94-03-106	220-56-25500U	REP-E	94-12-062
220-49-025	REP-P	94-03-106	220-52-068	AMD-C	94-12-007	220-56-25500V	NEW-E	94-12-062
220-49-025	REP-C	94-12-007	220-52-068	AMD	94-12-009	220-56-25500V	REP-E	94-13-063
220-49-025	REP	94-12-009	220-52-069	AMD-P	94-03-106	220-56-25500W	NEW-E	94-13-063
220-49-026	REP-P	94-03-106	220-52-069	AMD-C	94-12-007	220-56-285	AMD-P	94-03-105
220-49-026	REP-C	94-12-007	220-52-069	AMD	94-12-009	220-56-285	AMD	94-14-069

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
220-56-28500B	NEW-E	94-10-043	220-57-250	AMD	94-14-069	220-57A-00100B	NEW-E	94-12-012
220-56-305	AMD-P	94-03-105	220-57-255	AMD-P	94-03-105	220-57A-012	AMD-P	94-03-105
220-56-305	AMD	94-14-069	220-57-255	AMD	94-14-069	220-57A-01200A	NEW-E	94-10-043
220-56-30500A	NEW-E	94-10-043	220-57-26000A	NEW-E	94-13-003	220-57A-01200A	REP-E	94-11-068
220-56-307	AMD-P	94-03-105	220-57-270	AMD-P	94-03-105	220-57A-01200B	NEW-E	94-11-068
220-56-307	AMD	94-14-069	220-57-270	AMD	94-14-069	220-57A-152	AMD-P	94-03-105
220-56-30700A	NEW-E	94-10-043	220-57-280	AMD-P	94-03-105	220-57A-15200A	NEW-E	94-10-043
220-56-315	AMD-P	94-03-105	220-57-280	AMD	94-14-069	220-57A-15200A	REP-E	94-11-068
220-56-315	AMD	94-14-069	220-57-285	AMD-P	94-03-105	220-57A-15200B	NEW-E	94-11-068
220-56-31500B	NEW-E	94-10-043	220-57-285	AMD	94-14-069	220-57A-010	NEW	94-07-092
220-56-320	AMD-P	94-03-105	220-57-29000P	NEW-E	94-08-014	220-88A-010	NEW	94-07-092
220-56-320	AMD	94-14-069	220-57-29000P	REP-E	94-11-127	220-88A-020	NEW-P	94-03-098
220-56-32500Z	NEW-E	94-11-072	220-57-29000Q	NEW-E	94-11-127	220-88A-030	NEW-P	94-03-098
220-56-32500A	NEW-E	94-12-008	220-57-300	AMD-P	94-03-105	220-88A-030	NEW	94-07-092
220-56-32500A	REP-E	94-13-076	220-57-300	AMD	94-14-069	220-88A-040	NEW-P	94-03-098
220-56-350	AMD-P	94-03-105	220-57-310	AMD-P	94-03-105	220-88A-050	NEW	94-07-092
220-56-350	AMD	94-14-069	220-57-310	AMD	94-14-069	220-88A-050	NEW	94-07-092
220-56-35000X	NEW-E	94-07-052	220-57-31500Y	NEW-E	94-08-014	220-88A-060	NEW-P	94-03-098
220-56-35000X	REP-E	94-07-076	220-57-31500Y	REP-E	94-10-036	220-88A-060	NEW	94-07-092
220-56-35000Y	NEW-E	94-07-076	220-57-31500Z	NEW-E	94-10-036	220-88A-070	NEW-P	94-03-098
220-56-35000Y	REP-E	94-12-033	220-57-319	AMD-P	94-03-105	220-88A-070	NEW	94-07-092
220-56-35000Z	NEW-E	94-12-033	220-57-319	AMD	94-14-069	220-88A-080	NEW-P	94-03-098
220-56-36000H	NEW-E	94-07-003	220-57-335	AMD-P	94-03-105	220-88A-080	NEW	94-07-092
220-56-36000H	REP-E	94-08-009	220-57-335	AMD	94-14-069	220-88A-080	NEW	94-07-092
220-56-36000I	NEW-E	94-08-009	220-57-350	AMD-P	94-03-105	220-88A-080	NEW-P	94-03-098
220-56-36000I	REP-E	94-09-023	220-57-350	AMD	94-14-069	220-88A-080	NEW	94-07-092
220-56-36000J	NEW-E	94-09-023	220-57-370	AMD-P	94-03-105	220-88A-080	AMD-P	94-13-064
220-56-36000J	REP-E	94-10-038	220-57-37000F	NEW-E	94-14-062	220-110-010	AMD-P	94-11-126
220-56-36000K	NEW-E	94-10-038	220-57-385	AMD-P	94-03-105	220-110-020	AMD-P	94-11-126
220-56-380	AMD-P	94-03-105	220-57-385	AMD	94-14-069	220-110-030	AMD-P	94-11-126
220-56-380	AMD	94-14-069	220-57-38500V	NEW-E	94-13-071	220-110-032	NEW-P	94-11-126
220-56-38000R	NEW-E	94-07-052	220-57-400	AMD-P	94-03-105	220-110-035	NEW-P	94-11-126
220-56-38000R	REP-E	94-07-076	220-57-400	AMD	94-14-069	220-110-040	AMD-P	94-11-126
220-56-38000S	NEW-E	94-07-076	220-57-415	AMD-P	94-03-105	220-110-050	AMD-P	94-11-126
220-56-38000S	REP-E	94-12-033	220-57-415	AMD	94-14-069	220-110-060	AMD-P	94-11-126
220-56-38000T	NEW-E	94-12-033	220-57-425	AMD-P	94-03-105	220-110-070	AMD-P	94-11-126
220-56-382	AMD-P	94-03-105	220-57-425	AMD	94-14-069	220-110-080	AMD-P	94-11-126
220-56-382	AMD	94-14-069	220-57-430	AMD-P	94-03-105	220-110-090	REP-P	94-11-126
220-56-38200A	NEW-E	94-10-043	220-57-430	AMD	94-14-069	220-110-100	AMD-P	94-11-126
220-56-390	AMD-P	94-03-105	220-57-435	AMD-P	94-03-105	220-110-110	REP-P	94-11-126
220-56-390	AMD	94-14-069	220-57-435	AMD	94-14-069	220-110-120	AMD-P	94-11-126
220-56-400	AMD-P	94-03-105	220-57-450	AMD-P	94-03-105	220-110-130	AMD-P	94-11-126
220-56-400	AMD	94-14-069	220-57-450	AMD	94-14-069	220-110-140	AMD-P	94-11-126
220-56-40000C	NEW-E	94-10-043	220-57-455	AMD-P	94-03-105	220-110-150	AMD-P	94-11-126
220-56-405	AMD-P	94-03-105	220-57-455	AMD	94-14-069	220-110-160	AMD-P	94-11-126
220-56-405	AMD	94-14-069	220-57-46000A	NEW-E	94-13-071	220-110-170	AMD-P	94-11-126
220-56-410	AMD-P	94-03-105	220-57-465	AMD-P	94-03-105	220-110-180	AMD-P	94-11-126
220-56-410	AMD	94-14-069	220-57-465	AMD	94-14-069	220-110-190	AMD-P	94-11-126
220-56-415	NEW-P	94-03-105	220-57-473	AMD-P	94-03-105	220-110-200	AMD-P	94-11-126
220-56-415	NEW	94-14-069	220-57-473	AMD	94-14-069	220-110-210	AMD-P	94-11-126
220-57	AMD-C	94-14-068	220-57-47300A	NEW-E	94-10-043	220-110-220	AMD-P	94-11-126
220-57-130	AMD-P	94-03-105	220-57-480	AMD-P	94-03-105	220-110-223	NEW-P	94-11-126
220-57-130	AMD	94-14-069	220-57-480	AMD	94-14-069	220-110-224	NEW-P	94-11-126
220-57-135	AMD-P	94-03-105	220-57-490	AMD-P	94-03-105	220-110-230	AMD-P	94-11-126
220-57-135	AMD	94-14-069	220-57-490	AMD	94-14-069	220-110-240	AMD-P	94-11-126
220-57-140	AMD-P	94-03-105	220-57-495	AMD-P	94-03-105	220-110-250	AMD-P	94-11-126
220-57-140	AMD	94-14-069	220-57-495	AMD	94-14-069	220-110-260	REP-P	94-11-126
220-57-14000Q	NEW-E	94-10-068	220-57-49500L	NEW-E	94-10-043	220-110-270	AMD-P	94-11-126
220-57-155	AMD-P	94-03-105	220-57-49700H	NEW-E	94-08-014	220-110-271	NEW-P	94-11-126
220-57-155	AMD	94-14-069	220-57-49700H	REP-E	94-11-127	220-110-280	AMD-P	94-11-126
220-57-16000T	NEW-E	94-08-049	220-57-49700I	NEW-E	94-11-127	220-110-285	NEW-P	94-11-126
220-57-16000U	NEW-E	94-10-036	220-57-50500V	NEW-E	94-08-014	220-110-290	AMD-P	94-11-126
220-57-17500Y	NEW-E	94-11-075	220-57-50500V	REP-E	94-10-036	220-110-300	AMD-P	94-11-126
220-57-200	AMD-P	94-03-105	220-57-50500W	NEW-E	94-10-036	220-110-310	AMD-P	94-11-126
220-57-200	AMD	94-14-069	220-57-51500K	NEW-E	94-08-014	220-110-320	AMD-P	94-11-126
220-57-210	AMD-P	94-03-105	220-57-51500K	REP-E	94-10-036	220-110-330	AMD-P	94-11-126
220-57-210	AMD	94-14-069	220-57-520	AMD-P	94-03-105	220-110-340	AMD-P	94-11-126
220-57-215	AMD-P	94-03-105	220-57-520	AMD	94-14-069	220-110-350	AMD-P	94-11-126
220-57-215	AMD	94-14-069	220-57-525	AMD-P	94-03-105	220-110-360	NEW-P	94-11-126
220-57-22000C	NEW-E	94-13-003	220-57-525	AMD	94-14-069	222-16-010	AMD-E	94-05-046
220-57-230	AMD-P	94-03-105	220-57A	AMD-C	94-14-068	222-16-010	AMD-E	94-07-053
220-57-235	REP-P	94-03-105	220-57A-00100A	NEW-E	94-11-068	222-16-010	AMD-P	94-09-029
220-57-250	AMD-P	94-03-105	220-57A-00100A	REP-E	94-12-012			

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
222-16-010	AMD-E	94-09-030	230-12-010	AMD	94-07-084	232-28-02210	NEW	94-11-037
222-16-010	AMD-W	94-12-076	230-12-040	AMD-P	94-10-005	232-28-02220	NEW-P	94-04-062
222-16-010	AMD-E	94-13-065	230-12-040	AMD-E	94-13-099	232-28-02220	NEW	94-11-038
222-16-035	AMD-P	94-09-029	230-12-050	AMD-P	94-10-005	232-28-02230	NEW-P	94-04-063
222-16-035	AMD-E	94-09-030	230-12-050	AMD	94-13-099	232-28-02230	NEW	94-11-039
222-16-080	AMD-E	94-05-046	230-12-070	AMD-P	94-10-005	232-28-02240	NEW-P	94-04-064
222-16-080	AMD-E	94-07-053	230-12-070	AMD	94-13-099	232-28-02240	NEW	94-11-040
222-16-080	AMD-W	94-12-076	230-12-305	AMD-P	94-04-024	232-28-02240	AMD-P	94-14-089
222-16-080	AMD-E	94-13-065	230-12-305	AMD	94-07-084	232-28-02241	NEW-E	94-12-068
222-24-030	AMD-E	94-05-046	230-20-064	AMD-P	94-04-024	232-28-02250	NEW-P	94-04-065
222-24-030	AMD-E	94-13-065	230-20-064	AMD	94-07-084	232-28-02250	NEW	94-11-041
222-30-020	AMD-P	94-09-029	230-20-103	NEW-P	94-10-005	232-28-02260	NEW-P	94-04-066
222-30-020	AMD-E	94-09-030	230-20-103	NEW-C	94-13-101	232-28-02260	NEW	94-11-042
222-30-050	AMD-E	94-05-046	230-20-111	AMD-P	94-04-024	232-28-02270	NEW-P	94-04-067
222-30-050	AMD-E	94-13-065	230-20-111	AMD	94-07-084	232-28-02270	NEW	94-11-043
222-30-060	AMD-E	94-05-046	230-20-220	AMD-P	94-04-024	232-28-02280	NEW-P	94-04-068
222-30-060	AMD-E	94-13-065	230-20-220	AMD	94-07-084	232-28-02280	NEW	94-11-044
222-30-065	NEW-E	94-05-046	230-20-230	AMD-P	94-04-024	232-28-02290	NEW-P	94-04-069
222-30-065	NEW-E	94-13-065	230-20-230	AMD	94-07-084	232-28-02290	NEW	94-11-045
222-30-070	AMD-E	94-05-046	230-20-244	NEW-P	94-10-005	232-28-226	REP-P	94-04-114
222-30-070	AMD-E	94-13-065	230-20-244	NEW-C	94-11-094	232-28-226	REP	94-11-046
222-30-075	NEW-E	94-05-046	230-20-246	AMD-P	94-13-113	232-28-227	REP-P	94-04-116
222-30-075	AMD-E	94-13-065	230-20-400	AMD-P	94-04-024	232-28-227	REP	94-11-048
222-30-100	AMD-E	94-05-046	230-20-400	AMD	94-07-084	232-28-228	REP-P	94-04-115
222-30-100	AMD-E	94-13-065	230-20-680	AMD-P	94-04-024	232-28-228	REP	94-11-047
222-38-020	AMD-E	94-05-046	230-20-680	AMD	94-07-084	232-28-236	REP-P	94-05-079
222-38-020	AMD-E	94-13-065	230-25-160	AMD-P	94-04-024	232-28-236	REP	94-11-050
222-38-030	AMD-E	94-05-046	230-25-160	AMD	94-07-084	232-28-237	REP-P	94-05-078
220-38-030	AMD-E	94-13-065	230-25-200	AMD-P	94-07-083	232-28-237	REP	94-11-051
223-08-010	AMD-E	94-07-062	230-25-200	AMD	94-11-095	232-28-238	REP-P	94-04-117
223-08-010	AMD-P	94-07-097	230-30-050	AMD-P	94-07-083	232-28-238	REP	94-11-049
223-08-010	AMD	94-12-030	230-30-050	AMD	94-11-095	232-28-239	NEW	94-04-123
223-08-072	NEW-E	94-07-062	230-30-060	AMD-P	94-04-024	232-28-240	NEW-P	94-04-114
223-08-072	NEW-P	94-07-097	230-30-060	AMD	94-07-084	232-28-240	NEW	94-11-046
223-08-072	NEW	94-12-030	230-30-072	AMD-P	94-04-024	232-28-241	NEW-P	94-04-115
223-08-148	NEW-E	94-07-062	230-30-072	AMD	94-07-084	232-28-241	NEW	94-11-047
223-08-148	NEW-P	94-07-097	230-30-102	AMD-P	94-04-024	232-28-242	NEW-P	94-04-116
223-08-148	NEW	94-12-030	230-30-102	AMD	94-07-084	232-28-242	NEW	94-11-048
223-08-162	NEW-E	94-07-062	230-30-103	AMD-P	94-04-024	232-28-242	AMD-P	94-14-087
223-08-162	NEW-P	94-07-097	230-30-103	AMD	94-07-084	232-28-24201	NEW-E	94-11-078
223-08-162	NEW	94-12-030	230-40-010	AMD-P	94-10-006	232-28-243	NEW-P	94-04-117
223-08-165	AMD-E	94-07-062	230-40-010	AMD	94-13-098	232-28-243	NEW	94-11-049
223-08-165	AMD-P	94-07-097	230-40-050	AMD-E	94-13-100	232-28-244	NEW-P	94-05-079
223-08-165	AMD	94-12-030	230-40-050	AMD-P	94-13-112	232-28-244	NEW	94-11-050
223-08-171	NEW-E	94-07-062	230-40-055	AMD-P	94-04-024	232-28-245	NEW-P	94-05-078
223-08-171	NEW-P	94-07-097	230-40-055	AMD	94-07-084	232-28-245	NEW	94-11-051
223-08-171	NEW	94-12-030	230-40-120	AMD-P	94-10-006	232-28-245	AMD-P	94-14-088
223-08-252	NEW-E	94-07-062	230-40-120	AMD	94-13-098	232-28-24501	NEW-E	94-12-069
223-08-252	NEW-P	94-07-097	230-40-225	AMD-P	94-10-006	232-28-417	AMD-E	94-04-007
223-08-252	NEW	94-12-030	230-40-225	AMD	94-13-098	232-28-417	REP-P	94-14-092
230-02-030	AMD-P	94-07-083	232-12-024	AMD-P	94-14-090	232-28-418	NEW-P	94-14-092
230-02-030	AMD	94-11-095	232-12-131	AMD-P	94-04-118	232-28-513	REP-P	94-14-091
230-02-125	AMD-P	94-07-083	232-12-131	AMD-W	94-06-036	232-28-514	NEW-P	94-14-091
230-02-125	AMD	94-11-095	232-12-131	AMD-P	94-06-037	232-28-61940	NEW	94-04-018
230-02-161	AMD-P	94-04-024	232-12-131	AMD	94-11-030	232-28-61941	NEW	94-06-012
230-02-161	AMD	94-07-084	232-12-166	AMD-P	94-06-043	232-28-61942	NEW	94-06-013
230-04-035	AMD-P	94-04-024	232-12-166	AMD	94-09-019	232-28-61944	NEW-E	94-03-038
230-04-035	AMD	94-07-084	232-12-168	AMD	94-06-014	232-28-61945	NEW-E	94-04-012
230-04-075	AMD-P	94-04-024	232-28-022	REP-P	94-04-055	232-28-61945	NEW-P	94-06-038
230-04-075	AMD	94-07-084	232-28-022	REP	94-11-031	232-28-61945	NEW	94-09-068
230-08-015	AMD-P	94-04-024	232-28-02201	NEW-P	94-04-055	232-28-61946	NEW-P	94-06-039
230-08-015	AMD	94-07-084	232-28-02201	NEW	94-11-031	232-28-61946	NEW	94-09-067
230-08-120	AMD-P	94-07-083	232-28-02202	NEW-P	94-04-057	232-28-61947	NEW-P	94-06-040
230-08-120	AMD	94-11-095	232-28-02202	NEW	94-11-032	232-28-61947	NEW	94-09-066
230-08-130	AMD-P	94-07-083	232-28-02203	NEW-P	94-04-056	232-28-61948	NEW-E	94-09-005
230-08-130	AMD	94-11-095	232-28-02203	NEW	94-11-033	232-28-61949	NEW-E	94-08-048
230-08-150	AMD-P	94-07-083	232-28-02204	NEW-P	94-04-058	232-28-61950	NEW-P	94-09-069
230-08-150	AMD	94-11-095	232-28-02204	NEW	94-11-034	232-28-61950	NEW	94-12-067
230-08-160	AMD-P	94-07-083	232-28-02205	NEW-P	94-04-059	232-28-61951	NEW-P	94-11-125
230-08-160	AMD	94-11-095	232-28-02205	NEW	94-11-035	232-28-61951	NEW	94-14-035
230-08-260	AMD-P	94-07-083	232-28-02206	NEW-P	94-04-060	232-28-61952	NEW-P	94-14-108
230-08-260	AMD	94-11-095	232-28-02206	NEW	94-11-036	232-28-61953	NEW-P	94-14-107
230-12-010	AMD-P	94-04-024	232-28-02210	NEW-P	94-04-061	232-28-61954	NEW-P	94-14-106

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
236-14	PREP	94-09-047	240-20-060	NEW	94-11-081	242-02-072	AMD	94-07-033
236-48-190	PREP	94-11-007	240-20-065	NEW-P	94-05-100	242-02-110	AMD	94-07-033
240-20-001	NEW-P	94-05-100	240-20-065	NEW-E	94-05-101	242-02-140	AMD	94-07-033
240-20-001	NEW-E	94-05-101	240-20-065	NEW	94-10-030	242-02-210	AMD	94-07-033
240-20-001	NEW	94-10-030	240-20-065	NEW	94-11-081	242-02-220	AMD	94-07-033
240-20-001	NEW	94-11-081	240-20-070	NEW-P	94-05-100	242-02-240	AMD	94-07-033
240-20-010	NEW-P	94-05-100	240-20-070	NEW-E	94-05-101	242-02-250	AMD	94-07-033
240-20-010	NEW-E	94-05-101	240-20-070	NEW	94-10-030	242-02-270	AMD	94-07-033
240-20-010	NEW	94-10-030	240-20-070	NEW	94-11-081	242-02-280	AMD	94-07-033
240-20-010	NEW	94-11-081	240-20-075	NEW-P	94-05-100	242-02-310	AMD	94-07-033
240-20-015	NEW-P	94-05-100	240-20-075	NEW-E	94-05-101	242-02-320	AMD	94-07-033
240-20-015	NEW-E	94-05-101	240-20-075	NEW-P	94-10-029	242-02-330	AMD	94-07-033
240-20-015	NEW	94-10-030	240-20-075	NEW-E	94-10-031	242-02-340	AMD	94-07-033
240-20-015	NEW	94-11-081	240-20-080	NEW-P	94-05-100	242-02-410	AMD	94-07-033
240-20-020	NEW-P	94-05-100	240-20-080	NEW-E	94-05-101	242-02-440	AMD	94-07-033
240-20-020	NEW-E	94-05-101	240-20-080	NEW	94-10-030	242-02-510	AMD	94-07-033
240-20-020	NEW	94-10-030	240-20-080	NEW	94-11-081	242-02-520	NEW-W	94-07-007
240-20-020	NEW	94-11-081	240-20-090	NEW-P	94-05-100	242-02-522	AMD	94-07-033
240-20-025	NEW-P	94-05-100	240-20-090	NEW-E	94-05-101	242-02-530	AMD	94-07-033
240-20-025	NEW-E	94-05-101	240-20-090	NEW	94-10-030	242-02-540	AMD	94-07-033
240-20-025	NEW	94-10-030	240-20-090	NEW	94-11-081	242-02-550	AMD	94-07-033
240-20-025	NEW	94-11-081	240-20-110	NEW-P	94-05-100	242-02-554	AMD	94-07-033
240-20-030	NEW-P	94-05-100	240-20-110	NEW-E	94-05-101	242-02-558	AMD	94-07-033
240-20-030	NEW-E	94-05-101	240-20-110	NEW	94-10-030	242-02-570	AMD	94-07-033
240-20-030	NEW	94-10-030	240-20-110	NEW	94-11-081	242-02-580	AMD	94-07-033
240-20-030	NEW	94-11-081	240-20-120	NEW-P	94-05-100	242-02-620	AMD	94-07-033
240-20-035	NEW-P	94-05-100	240-20-120	NEW-E	94-05-101	242-02-680	AMD	94-07-033
240-20-035	NEW-E	94-05-101	240-20-120	NEW	94-10-030	242-02-830	AMD	94-07-033
240-20-035	NEW	94-10-030	240-20-120	NEW	94-11-081	242-02-850	AMD	94-07-033
240-20-035	NEW	94-11-081	240-20-130	NEW-P	94-05-100	242-02-880	AMD	94-07-033
240-20-040	NEW-P	94-05-100	240-20-130	NEW-E	94-05-101	242-02-892	NEW-W	94-07-007
240-20-040	NEW-E	94-05-101	240-20-130	NEW	94-10-030	242-02-910	AMD	94-07-033
240-20-040	NEW	94-10-030	240-20-130	NEW	94-11-081	242-02-920	AMD	94-07-033
240-20-040	NEW	94-11-081	240-20-210	NEW-P	94-05-100	242-04-050	AMD	94-07-033
240-20-042	NEW-P	94-05-100	240-20-210	NEW-E	94-05-101	245-01-010	NEW	94-04-046
240-20-042	NEW-E	94-05-101	240-20-210	NEW	94-10-030	245-01-020	NEW	94-04-046
240-20-042	NEW	94-10-030	240-20-210	NEW	94-11-081	245-01-020	AMD-P	94-06-060
240-20-042	NEW	94-11-081	240-20-220	NEW-P	94-05-100	245-01-020	AMD-W	94-13-208
240-20-044	NEW-P	94-05-100	240-20-220	NEW-E	94-05-101	245-01-030	NEW	94-04-046
240-20-044	NEW-E	94-05-101	240-20-220	NEW	94-10-030	245-01-040	NEW	94-04-046
240-20-044	NEW	94-10-030	240-20-220	NEW	94-11-081	245-01-050	NEW	94-04-046
240-20-044	NEW	94-11-081	240-20-230	NEW-P	94-05-100	245-01-060	NEW	94-04-046
240-20-046	NEW-P	94-05-100	240-20-230	NEW-E	94-05-101	245-01-070	NEW	94-04-046
240-20-046	NEW-E	94-05-101	240-20-230	NEW	94-10-030	245-01-080	NEW	94-04-046
240-20-046	NEW	94-10-030	240-20-230	NEW	94-11-081	245-01-090	NEW	94-04-046
240-20-046	NEW	94-11-081	240-20-310	NEW-P	94-05-100	245-01-100	NEW	94-04-046
240-20-048	NEW-P	94-05-100	240-20-310	NEW-E	94-05-101	245-01-110	NEW	94-04-046
240-20-048	NEW-E	94-05-101	240-20-310	NEW	94-10-030	245-01-120	NEW	94-04-046
240-20-048	NEW	94-10-030	240-20-310	NEW	94-11-081	245-01-130	NEW	94-04-046
240-20-048	NEW	94-11-081	240-20-320	NEW-P	94-05-100	245-01-140	NEW	94-04-046
240-20-050	NEW-P	94-05-100	240-20-320	NEW-E	94-05-101	245-01-150	NEW	94-04-046
240-20-050	NEW-E	94-05-101	240-20-320	NEW	94-10-030	245-02-010	NEW-P	94-06-060
240-20-050	NEW	94-10-030	240-20-320	NEW	94-11-081	245-02-010	NEW-P	94-12-081
240-20-050	NEW	94-11-081	240-20-330	NEW-P	94-05-100	245-02-010	NEW-W	94-13-208
240-20-052	NEW-P	94-05-100	240-20-330	NEW-E	94-05-101	245-02-020	NEW-P	94-06-060
240-20-052	NEW-E	94-05-101	240-20-330	NEW	94-10-030	245-02-020	NEW-P	94-12-081
240-20-052	NEW	94-10-030	240-20-330	NEW	94-11-081	245-02-020	NEW-W	94-13-208
240-20-052	NEW	94-11-081	240-20-410	NEW-P	94-05-100	245-02-025	NEW-P	94-12-081
240-20-054	NEW-P	94-05-100	240-20-410	NEW-E	94-05-101	245-02-030	NEW-P	94-06-060
240-20-054	NEW-E	94-05-101	240-20-410	NEW	94-10-030	245-02-030	NEW-P	94-12-081
240-20-054	NEW	94-10-030	240-20-410	NEW	94-11-081	245-02-030	NEW-W	94-13-208
240-20-054	NEW	94-11-081	240-20-420	NEW-P	94-05-100	245-02-040	NEW-P	94-06-060
240-20-056	NEW-P	94-05-100	240-20-420	NEW-E	94-05-101	245-02-040	NEW-P	94-12-081
240-20-056	NEW-E	94-05-101	240-20-420	NEW	94-10-030	245-02-040	NEW-W	94-13-208
240-20-056	NEW	94-10-030	240-20-420	NEW	94-11-081	245-02-050	NEW-P	94-06-060
240-20-056	NEW	94-11-081	240-20-430	NEW-P	94-05-100	245-02-050	NEW-P	94-12-081
240-20-058	NEW-P	94-05-100	240-20-430	NEW-E	94-05-101	245-02-050	NEW-W	94-13-208
240-20-058	NEW-E	94-05-101	240-20-430	NEW	94-10-030	245-02-060	NEW-P	94-12-081
240-20-058	NEW	94-10-030	240-20-430	NEW	94-11-081	245-02-070	NEW-P	94-12-081
240-20-058	NEW	94-11-081	240-20-425	NEW-E	94-04-015	245-02-080	NEW-P	94-12-081
240-20-060	NEW-P	94-05-100	240-20-427	NEW-E	94-04-015	245-02-090	NEW-P	94-12-081
240-20-060	NEW-E	94-05-101	242-02-040	AMD	94-07-033	245-02-100	NEW-P	94-12-078
240-20-060	NEW	94-10-030	242-02-052	AMD	94-07-033	245-02-110	NEW-P	94-12-078

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
245-02-115	NEW-P	94-12-078	246-11-290	AMD	94-04-078	246-254-053	AMD-P	94-07-108
245-02-120	NEW-P	94-12-078	246-11-300	AMD	94-04-078	246-254-053	AMD	94-11-010
245-02-125	NEW-P	94-12-078	246-11-320	AMD-W	94-13-087	246-254-070	AMD-P	94-07-107
245-02-130	NEW-P	94-12-078	246-11-330	AMD	94-04-078	246-254-070	AMD	94-11-011
245-02-135	NEW-P	94-12-078	246-11-340	AMD	94-04-078	246-254-080	AMD-P	94-07-107
245-02-140	NEW-P	94-12-078	246-11-360	AMD	94-04-078	246-254-080	AMD	94-11-011
245-02-145	NEW-P	94-12-078	246-11-370	AMD	94-04-078	246-254-090	AMD-P	94-07-107
245-02-150	NEW-P	94-12-078	246-11-380	AMD	94-04-078	246-254-090	AMD	94-11-011
245-02-155	NEW-P	94-12-078	246-11-390	AMD	94-04-078	246-254-100	AMD-P	94-07-107
245-02-160	NEW-P	94-12-078	246-11-400	AMD	94-04-078	246-254-100	AMD	94-11-011
245-02-165	NEW-P	94-12-078	246-11-420	AMD	94-04-078	246-254-120	AMD-P	94-07-107
245-02-170	NEW-P	94-12-078	246-11-425	NEW	94-04-078	246-254-120	AMD	94-11-011
245-02-175	NEW-P	94-12-078	246-11-430	AMD	94-04-078	246-254-160	AMD	94-07-010
245-02-180	NEW-P	94-12-078	246-11-440	AMD	94-04-078	246-260-990	REP-P	94-07-121
245-04-100	NEW-P	94-10-085	246-11-450	AMD	94-04-078	246-260-990	REP	94-11-056
245-04-100	NEW-S	94-12-079	246-11-480	AMD	94-04-078	246-260-9901	NEW-P	94-07-121
245-04-110	NEW-P	94-10-085	246-11-500	AMD	94-04-078	246-260-9901	NEW	94-11-056
245-04-110	NEW-S	94-12-079	246-11-510	AMD	94-04-078	246-272-001	REP	94-09-025
245-04-115	NEW-P	94-10-085	246-11-530	AMD	94-04-078	246-272-00101	NEW	94-09-025
245-04-115	NEW-S	94-12-079	246-11-540	AMD	94-04-078	246-272-001	REP	94-09-025
246-08-450	AMD	94-04-079	246-11-560	AMD	94-04-078	246-272-005	REP	94-09-025
246-10-102	AMD	94-04-079	246-11-580	AMD	94-04-078	246-272-00501	NEW	94-09-025
246-10-103	AMD	94-04-079	246-11-590	AMD	94-04-078	246-272-010	REP	94-09-025
246-10-107	AMD	94-04-079	246-11-600	AMD	94-04-078	246-272-01001	NEW	94-09-025
246-10-109	AMD	94-04-079	246-11-610	AMD	94-04-078	246-272-020	REP	94-09-025
246-10-110	AMD	94-04-079	246-50-001	PREP	94-09-042	246-272-02001	NEW	94-09-025
246-10-114	AMD	94-04-079	246-50-010	PREP	94-09-042	246-272-030	REP	94-09-025
246-10-115	AMD	94-04-079	246-50-020	PREP	94-09-042	246-272-03001	NEW	94-09-025
246-10-123	AMD	94-04-079	246-50-030	PREP	94-09-042	246-272-040	REP	94-09-025
246-10-124	AMD	94-04-079	246-50-040	PREP	94-09-042	246-272-04001	NEW	94-09-025
246-10-201	AMD	94-04-079	246-50-990	PREP	94-09-042	246-272-050	REP	94-09-025
246-10-202	AMD	94-04-079	246-100	PREP	94-12-048	246-272-05001	NEW	94-09-025
246-10-203	AMD	94-04-079	246-100-011	AMD-P	94-14-081	246-272-060	REP	94-09-025
246-10-204	AMD	94-04-079	246-100-076	AMD-P	94-14-081	246-272-070	REP	94-09-025
246-10-205	AMD	94-04-079	246-100-236	AMD-P	94-14-081	246-272-07001	NEW	94-09-025
246-10-303	AMD-W	94-13-088	246-132-020	REP	94-06-048	246-272-080	REP	94-09-025
246-10-304	AMD	94-04-079	246-132-030	REP	94-06-048	246-272-08001	NEW	94-09-025
246-10-305	AMD	94-04-079	246-170	PREP	94-12-048	246-272-090	REP	94-09-025
246-10-401	AMD	94-04-079	246-170-010	AMD-P	94-14-081	246-272-09001	NEW	94-09-025
246-10-402	AMD	94-04-079	246-170-030	AMD-P	94-14-081	246-272-09501	NEW	94-09-025
246-10-403	AMD	94-04-079	246-170-035	NEW-P	94-14-081	246-272-100	REP	94-09-025
246-10-404	AMD	94-04-079	246-170-050	AMD-P	94-14-081	246-272-110	REP	94-09-025
246-10-501	AMD	94-04-079	246-225-020	AMD	94-06-017	246-272-11001	NEW	94-09-025
246-10-502	AMD	94-04-079	246-227-030	NEW-W	94-06-016	246-272-11501	NEW	94-09-025
246-10-503	AMD	94-04-079	246-227-100	NEW-W	94-06-016	246-272-120	REP	94-09-025
246-10-504	AMD	94-04-079	246-239-020	AMD	94-06-017	246-272-12501	NEW	94-09-025
246-10-604	AMD	94-04-079	246-239-022	NEW	94-06-017	246-272-130	REP	94-09-025
246-10-607	AMD	94-04-079	246-239-030	AMD	94-06-017	246-272-13501	NEW	94-09-025
246-10-701	AMD	94-04-079	246-239-035	NEW	94-06-017	246-272-140	REP	94-09-025
246-10-702	AMD	94-04-079	246-239-050	AMD	94-06-017	246-272-14501	NEW	94-09-025
246-10-704	AMD	94-04-079	246-239-070	AMD	94-06-017	246-272-150	REP	94-09-025
246-10-705	AMD	94-04-079	246-239-080	AMD	94-06-017	246-272-15501	NEW	94-09-025
246-10-706	AMD	94-04-079	246-239-090	AMD	94-06-017	246-272-160	REP	94-09-025
246-10-707	AMD	94-04-079	246-239-100	AMD	94-06-017	246-272-16501	NEW	94-09-025
246-11-010	AMD	94-04-078	246-240-020	AMD	94-06-017	246-272-170	REP	94-09-025
246-11-020	AMD	94-04-078	246-247-001	AMD	94-07-010	246-272-17501	NEW	94-09-025
246-11-030	AMD	94-04-078	246-247-002	NEW	94-07-010	246-272-180	REP	94-09-025
246-11-050	AMD	94-04-078	246-247-010	AMD	94-07-010	246-272-18501	NEW	94-09-025
246-11-060	AMD	94-04-078	246-247-020	AMD	94-07-010	246-272-190	REP	94-09-025
246-11-080	AMD	94-04-078	246-247-030	AMD	94-07-010	246-272-19501	NEW	94-09-025
246-11-090	AMD	94-04-078	246-247-040	AMD	94-07-010	246-272-200	REP	94-09-025
246-11-100	AMD	94-04-078	246-247-050	REP	94-07-010	246-272-20501	NEW	94-09-025
246-11-110	AMD	94-04-078	246-247-060	AMD	94-07-010	246-272-210	REP	94-09-025
246-11-130	AMD	94-04-078	246-247-065	NEW	94-07-010	246-272-21501	NEW	94-09-025
246-11-140	AMD	94-04-078	246-247-070	REP	94-07-010	246-272-220	REP	94-09-025
246-11-160	AMD	94-04-078	246-247-075	NEW	94-07-010	246-272-22501	NEW	94-09-025
246-11-180	AMD	94-04-078	246-247-080	AMD	94-07-010	246-272-230	REP	94-09-025
246-11-220	AMD	94-04-078	246-247-085	NEW	94-07-010	246-272-23501	NEW	94-09-025
246-11-230	AMD	94-04-078	246-247-090	REP	94-07-010	246-272-240	REP	94-09-025
246-11-250	AMD	94-04-078	246-247-100	AMD	94-07-010	246-272-24001	NEW	94-09-025
246-11-260	AMD	94-04-078	246-247-110	NEW	94-07-010	246-272-25001	NEW	94-09-025
246-11-270	AMD	94-04-078	246-247-120	NEW	94-07-010	246-272-26001	NEW	94-09-025
246-11-280	AMD	94-04-078	246-247-130	NEW	94-07-010	246-272-27001	NEW	94-09-025

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-272-28001	NEW	94-09-025	246-291-030	NEW-P	94-06-008	246-295-020	NEW-P	94-13-085
246-282	PREP	94-12-087	246-291-030	NEW	94-14-002	246-295-030	NEW-P	94-13-085
246-282	PREP	94-12-088	246-291-040	NEW-P	94-06-008	246-295-040	NEW-P	94-13-085
246-290-010	AMD-P	94-08-075	246-291-040	NEW	94-14-002	246-295-050	NEW-P	94-13-085
246-290-010	AMD	94-14-001	246-291-050	NEW-P	94-06-008	246-295-060	NEW-P	94-13-085
246-290-020	AMD-P	94-08-075	246-291-050	NEW	94-14-002	246-295-070	NEW-P	94-13-085
246-290-020	AMD	94-14-001	246-291-060	NEW-P	94-06-008	246-295-080	NEW-P	94-13-085
246-290-025	NEW-P	94-08-075	246-291-060	NEW	94-14-002	246-295-090	NEW-P	94-13-085
246-290-025	NEW	94-14-001	246-291-100	NEW-P	94-06-008	246-295-100	NEW-P	94-13-085
246-290-030	AMD-P	94-08-075	246-291-100	NEW	94-14-002	246-295-110	NEW-P	94-13-085
246-290-030	AMD	94-14-001	246-291-110	NEW-P	94-06-008	246-295-120	NEW-P	94-13-085
246-290-040	AMD-P	94-08-075	246-291-110	NEW	94-14-002	246-295-130	NEW-P	94-13-085
246-290-040	AMD	94-14-001	246-291-120	NEW-P	94-06-008	246-316-001	AMD-P	94-08-040
246-290-060	AMD-P	94-08-075	246-291-120	NEW	94-14-002	246-316-001	AMD	94-13-180
246-290-060	AMD	94-14-001	246-291-130	NEW-P	94-06-008	246-316-010	AMD-P	94-08-040
246-290-100	AMD-P	94-08-075	246-291-130	NEW	94-14-002	246-316-010	AMD	94-13-180
246-290-100	AMD	94-14-001	246-291-140	NEW-P	94-06-008	246-316-020	AMD-P	94-08-040
246-290-110	AMD-P	94-08-075	246-291-140	NEW	94-14-002	246-316-020	AMD	94-13-180
246-290-110	AMD	94-14-001	246-291-200	NEW-P	94-06-008	246-316-030	AMD-P	94-08-040
246-290-115	NEW-P	94-08-075	246-291-200	NEW	94-14-002	246-316-030	AMD	94-13-180
246-290-115	NEW	94-14-001	246-291-210	NEW-P	94-06-008	246-316-040	AMD-P	94-08-040
246-290-130	AMD-P	94-08-075	246-291-210	NEW	94-14-002	246-316-040	AMD	94-13-180
246-290-130	AMD	94-14-001	246-291-220	NEW-P	94-06-008	246-316-045	AMD-P	94-08-040
246-290-135	AMD-P	94-08-075	246-291-220	NEW	94-14-002	246-316-045	AMD	94-13-180
246-290-135	AMD	94-14-001	246-291-230	NEW-P	94-06-008	246-316-050	AMD-P	94-08-040
246-290-140	AMD-P	94-08-075	246-291-230	NEW	94-14-002	246-316-050	AMD	94-13-180
246-290-140	AMD	94-14-001	246-291-240	NEW-P	94-06-008	246-316-055	NEW-P	94-08-040
246-290-230	AMD-P	94-08-075	246-291-240	NEW	94-14-002	246-316-055	NEW	94-13-180
246-290-230	AMD	94-14-001	246-291-250	NEW-P	94-06-008	246-316-060	AMD-P	94-08-040
246-290-300	AMD-P	94-08-075	246-291-250	NEW	94-14-002	246-316-060	AMD	94-13-180
246-290-300	AMD	94-14-001	246-291-260	NEW-P	94-06-008	246-316-070	AMD-P	94-08-040
246-290-310	AMD-P	94-08-075	246-291-260	NEW	94-14-002	246-316-070	AMD	94-13-180
246-290-310	AMD	94-14-001	246-291-270	NEW-P	94-06-008	246-316-080	AMD-P	94-08-040
246-290-320	AMD-P	94-08-075	246-291-270	NEW	94-14-002	246-316-080	AMD	94-13-180
246-290-320	AMD	94-14-001	246-291-300	NEW-P	94-06-008	246-316-090	AMD-P	94-08-040
246-290-330	AMD-P	94-08-075	246-291-300	NEW	94-14-002	246-316-090	AMD	94-13-180
246-290-330	AMD	94-14-001	246-291-310	NEW-P	94-06-008	246-316-100	AMD-P	94-08-040
246-290-410	AMD-P	94-08-075	246-291-310	NEW	94-14-002	246-316-100	AMD	94-13-180
246-290-410	AMD	94-14-001	246-291-320	NEW-P	94-06-008	246-316-110	AMD-P	94-08-040
246-290-440	AMD-P	94-08-075	246-291-320	NEW	94-14-002	246-316-110	AMD	94-13-180
246-290-440	AMD	94-14-001	246-291-330	NEW-P	94-06-008	246-316-120	AMD-P	94-08-040
246-290-480	AMD-P	94-08-075	246-291-330	NEW	94-14-002	246-316-120	AMD	94-13-180
246-290-480	AMD	94-14-001	246-291-340	NEW-P	94-06-008	246-316-130	AMD-P	94-08-040
246-290-632	AMD-P	94-08-075	246-291-340	NEW	94-14-002	246-316-130	AMD	94-13-180
246-290-632	AMD	94-14-001	246-291-350	NEW-P	94-06-008	246-316-140	AMD-P	94-08-040
246-290-654	AMD-P	94-08-075	246-291-350	NEW	94-14-002	246-316-140	AMD	94-13-180
246-290-654	AMD	94-14-001	246-291-360	NEW-P	94-06-008	246-316-150	AMD-P	94-08-040
246-290-660	AMD-P	94-08-075	246-291-360	NEW	94-14-002	246-316-150	AMD	94-13-180
246-290-660	AMD	94-14-001	246-291-370	NEW-P	94-06-008	246-316-160	AMD-P	94-08-040
246-290-662	AMD-P	94-08-075	246-291-370	NEW	94-14-002	246-316-160	AMD	94-13-180
246-290-662	AMD	94-14-001	246-292-001	AMD	94-04-004	246-316-170	AMD-P	94-08-040
246-290-664	AMD-P	94-08-075	246-292-010	AMD	94-04-004	246-316-170	AMD	94-13-180
246-290-664	AMD	94-14-001	246-292-020	AMD	94-04-004	246-316-180	AMD-P	94-08-040
246-290-666	AMD-P	94-08-075	246-292-030	AMD	94-04-004	246-316-180	AMD	94-13-180
246-290-666	AMD	94-14-001	246-292-040	AMD	94-04-004	246-316-190	AMD-P	94-08-040
246-290-670	AMD-P	94-08-075	246-292-050	AMD	94-04-004	246-316-190	AMD	94-13-180
246-290-670	AMD	94-14-001	246-292-055	NEW	94-04-004	246-316-200	AMD-P	94-08-040
246-290-686	AMD-P	94-08-075	246-292-060	AMD	94-04-004	246-316-200	AMD	94-13-180
246-290-686	AMD	94-14-001	246-292-070	AMD	94-04-004	246-316-210	AMD-P	94-08-040
246-290-692	AMD-P	94-08-075	246-292-075	NEW	94-04-004	246-316-210	AMD	94-13-180
246-290-692	AMD	94-14-001	246-292-080	AMD	94-04-004	246-316-220	AMD-P	94-08-040
246-290-694	AMD-P	94-08-075	246-292-090	AMD	94-04-004	246-316-220	AMD	94-13-180
246-290-694	AMD	94-14-001	246-292-100	AMD	94-04-004	246-316-230	AMD-P	94-08-040
246-290-696	AMD-P	94-08-075	246-292-110	AMD	94-04-004	246-316-230	AMD	94-13-180
246-290-696	AMD	94-14-001	246-292-120	REP	94-04-004	246-316-240	AMD-P	94-08-040
246-291-001	NEW-P	94-06-008	246-292-130	REP	94-04-004	246-316-240	AMD	94-13-180
246-291-001	NEW	94-14-002	246-292-140	REP	94-04-004	246-316-250	AMD-P	94-08-040
246-291-010	NEW-P	94-06-008	246-292-150	REP	94-04-004	246-316-250	AMD	94-13-180
246-291-010	NEW	94-14-002	246-292-160	NEW	94-04-004	246-316-260	AMD-P	94-08-040
246-291-020	NEW-P	94-06-008	246-292-170	NEW	94-04-004	246-316-260	AMD	94-13-180
246-291-020	NEW	94-14-002	246-292-990	REP	94-04-004	246-316-265	NEW-P	94-08-040
246-291-025	NEW-P	94-06-008	246-295-001	NEW-P	94-13-085	246-316-265	NEW	94-13-180
246-291-025	NEW	94-14-002	246-295-010	NEW-P	94-13-085	246-316-268	NEW-P	94-08-040

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-316-268	NEW	94-13-180	246-336-065	AMD-P	94-10-046	246-453-001	AMD-P	94-09-026
246-316-270	REP-P	94-08-040	246-336-077	AMD-P	94-10-046	246-453-001	AMD	94-12-089
246-316-270	REP	94-13-180	246-336-085	AMD-P	94-10-046	246-453-010	AMD-P	94-09-026
246-316-280	AMD-P	94-08-040	246-336-095	AMD-P	94-10-046	246-453-010	AMD	94-12-089
246-316-280	AMD	94-13-180	246-336-100	AMD-P	94-10-046	246-453-050	AMD-P	94-09-026
246-316-290	AMD-P	94-08-040	246-336-105	AMD-P	94-10-046	246-453-050	AMD	94-12-089
246-316-290	AMD	94-13-180	246-336-115	AMD-P	94-10-046	246-453-070	AMD-P	94-09-026
246-316-300	AMD-P	94-08-040	246-336-125	AMD-P	94-10-046	246-453-070	AMD	94-12-089
246-316-300	AMD	94-13-180	246-336-135	AMD-P	94-10-046	246-453-090	AMD-P	94-09-026
246-316-310	AMD-P	94-08-040	246-336-165	AMD-P	94-10-046	246-453-090	AMD	94-12-089
246-316-310	AMD	94-13-180	246-336-990	AMD-P	94-10-046	246-454-001	AMD-P	94-09-026
246-316-320	AMD-P	94-08-040	246-338	PREP	94-11-012	246-454-001	AMD	94-12-089
246-316-320	AMD	94-13-180	246-338-010	AMD-P	94-14-039	246-454-010	AMD-P	94-09-026
246-316-330	AMD-P	94-08-040	246-338-020	AMD-P	94-14-039	246-454-010	AMD	94-12-089
246-316-330	AMD	94-13-180	246-338-030	AMD-P	94-14-039	246-454-020	AMD-P	94-09-026
246-316-335	NEW-P	94-08-040	246-338-050	AMD-P	94-14-039	246-454-020	AMD	94-12-089
246-316-335	NEW	94-13-180	246-338-990	AMD-P	94-14-039	246-454-030	AMD-P	94-09-026
246-316-340	AMD-P	94-08-040	246-360	PREP	94-10-058	246-454-030	AMD	94-12-089
246-316-340	AMD	94-13-180	246-390	PREP	94-13-004	246-454-040	REP-P	94-09-026
246-316-990	AMD-P	94-08-040	246-450-001	REP-P	94-09-026	246-454-040	REP	94-12-089
246-316-990	AMD	94-13-180	246-450-001	REP	94-12-089	246-454-050	AMD-P	94-09-026
246-322	PREP	94-13-177	246-450-010	REP-P	94-09-026	246-454-050	AMD	94-12-089
246-324	PREP	94-13-177	246-450-010	REP	94-12-089	246-454-060	REP-P	94-09-026
246-327-001	AMD-P	94-10-047	246-450-020	REP-P	94-09-026	246-454-060	REP	94-12-089
246-327-010	AMD-P	94-10-047	246-450-020	REP	94-12-089	246-454-070	AMD-P	94-09-026
246-327-025	AMD-P	94-10-047	246-450-030	REP-P	94-09-026	246-454-070	AMD	94-12-089
246-327-030	NEW-P	94-10-047	246-450-030	REP	94-12-089	246-454-080	AMD-P	94-09-026
246-327-035	AMD-P	94-10-047	246-450-040	REP-P	94-09-026	246-454-080	AMD	94-12-089
246-327-045	REP-P	94-10-047	246-450-040	REP	94-12-089	246-454-090	AMD-P	94-09-026
246-327-055	REP-P	94-10-047	246-450-050	REP-P	94-09-026	246-454-090	AMD	94-12-089
246-327-065	AMD-P	94-10-047	246-450-050	REP	94-12-089	246-454-100	REP-P	94-09-026
246-327-077	AMD-P	94-10-047	246-450-060	REP-P	94-09-026	246-454-100	REP	94-12-089
246-327-085	AMD-P	94-10-047	246-450-060	REP	94-12-089	246-454-110	AMD-P	94-09-026
246-327-090	AMD-P	94-10-047	246-450-070	REP-P	94-09-026	246-454-110	AMD	94-12-089
246-327-095	AMD-P	94-10-047	246-450-070	REP	94-12-089	246-454-120	AMD-P	94-09-026
246-327-105	AMD-P	94-10-047	246-450-080	REP-P	94-09-026	246-454-120	AMD	94-12-089
246-327-115	AMD-P	94-10-047	246-450-080	REP	94-12-089	246-455-001	AMD-P	94-09-007
246-327-125	AMD-P	94-10-047	246-450-090	REP-P	94-09-026	246-455-001	AMD	94-12-090
246-327-135	AMD-P	94-10-047	246-450-090	REP	94-12-089	246-455-010	AMD-P	94-09-007
246-327-145	AMD-P	94-10-047	246-450-100	REP-P	94-09-026	246-455-010	AMD	94-12-090
246-327-155	REP-P	94-10-047	246-450-100	REP	94-12-089	246-455-020	AMD-P	94-09-007
246-327-165	AMD-P	94-10-047	246-451-001	AMD-P	94-09-026	246-455-020	AMD	94-12-090
246-327-175	REP-P	94-10-047	246-451-001	AMD	94-12-089	246-455-040	AMD-P	94-09-007
246-327-185	AMD-P	94-10-047	246-451-010	AMD-P	94-09-026	246-455-040	AMD	94-12-090
246-327-990	AMD-P	94-10-047	246-451-010	AMD	94-12-089	246-455-050	AMD-P	94-09-007
246-331-001	AMD-P	94-10-045	246-451-020	AMD-P	94-09-026	246-455-050	AMD	94-12-090
246-331-010	AMD-P	94-10-045	246-451-020	AMD	94-12-089	246-455-060	AMD-P	94-09-007
246-331-025	AMD-P	94-10-045	246-451-030	AMD-P	94-09-026	246-455-060	AMD	94-12-090
246-331-030	NEW-P	94-10-045	246-451-030	AMD	94-12-089	246-455-070	AMD-P	94-09-007
246-331-035	AMD-P	94-10-045	246-451-040	AMD-P	94-09-026	246-455-070	AMD	94-12-090
246-331-045	REP-P	94-10-045	246-451-040	AMD	94-12-089	246-455-080	AMD-P	94-09-007
246-331-055	REP-P	94-10-045	246-451-050	AMD-P	94-09-026	246-455-080	AMD	94-12-090
246-331-065	AMD-P	94-10-045	246-451-050	AMD	94-12-089	246-455-090	AMD-P	94-09-007
246-331-077	AMD-P	94-10-045	246-451-060	AMD-P	94-09-026	246-455-090	AMD	94-12-090
246-331-085	AMD-P	94-10-045	246-451-060	AMD	94-12-089	246-455-100	AMD-P	94-09-007
246-331-095	AMD-P	94-10-045	246-452-001	REP-P	94-09-026	246-455-100	AMD	94-12-090
246-331-100	AMD-P	94-10-045	246-452-001	REP	94-12-089	246-490-100	NEW	94-04-083
246-331-105	AMD-P	94-10-045	246-452-010	REP-P	94-09-026	246-490-110	NEW	94-04-083
246-331-115	AMD-P	94-10-045	246-452-010	REP	94-12-089	246-520-001	REP	94-05-052
246-331-125	AMD-P	94-10-045	246-452-020	REP-P	94-09-026	246-520-010	REP	94-05-052
246-331-135	AMD-P	94-10-045	246-452-020	REP	94-12-089	246-520-020	REP	94-05-052
246-331-155	REP-P	94-10-045	246-452-030	REP-P	94-09-026	246-520-030	REP	94-05-052
246-331-165	AMD-P	94-10-045	246-452-030	REP	94-12-089	246-520-040	REP	94-05-052
246-331-175	REP-P	94-10-045	246-452-040	REP-P	94-09-026	246-520-050	REP	94-05-052
246-331-185	AMD-P	94-10-045	246-452-040	REP	94-12-089	246-520-060	REP	94-05-052
246-331-990	AMD-P	94-10-045	246-452-050	REP-P	94-09-026	246-520-070	REP	94-05-052
246-336-001	AMD-P	94-10-046	246-452-050	REP	94-12-089	246-807-115	NEW-P	94-03-053
246-336-010	AMD-P	94-10-046	246-452-060	REP-P	94-09-026	246-807-115	NEW	94-08-053
246-336-025	AMD-P	94-10-046	246-452-060	REP	94-12-089	246-807-125	NEW-P	94-11-080
246-336-030	NEW-P	94-10-046	246-452-070	REP-P	94-09-026	246-807-135	NEW-P	94-11-080
246-336-035	AMD-P	94-10-046	246-452-070	REP	94-12-089	246-807-173	AMD-P	94-11-080
246-336-045	REP-P	94-10-046	246-452-080	REP-P	94-09-026	246-807-300	AMD-P	94-11-080
246-336-055	REP-P	94-10-046	246-452-080	REP	94-12-089	246-815-030	AMD	94-05-053

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-815-300	NEW	94-04-005	246-839-020	AMD	94-07-012	246-878-060	NEW	94-08-101
246-815-990	AMD	94-02-059	246-839-020	PREP	94-10-057	246-878-070	NEW-P	94-02-079
246-816-015	NEW-P	94-03-045	246-839-030	AMD	94-07-012	246-878-070	NEW	94-08-101
246-816-015	NEW	94-12-038	246-839-040	AMD	94-07-012	246-878-080	NEW-P	94-02-079
246-818	PREP	94-13-005	246-839-050	AMD	94-07-012	246-878-080	NEW	94-08-101
246-818-015	NEW-P	94-03-044	246-839-060	AMD	94-07-012	246-878-090	NEW-P	94-02-079
246-818-015	NEW	94-08-011	246-839-070	AMD	94-07-012	246-878-090	NEW	94-08-101
246-818-020	AMD-P	94-06-046	246-839-080	AMD	94-07-012	246-878-100	NEW-P	94-02-079
246-818-020	AMD	94-11-088	246-839-090	AMD	94-07-012	246-878-100	NEW	94-08-101
246-818-990	REP	94-02-058	246-839-300	PREP	94-10-056	246-878-110	NEW-P	94-02-079
246-818-991	NEW	94-02-058	246-839-300	PREP	94-11-079	246-878-110	NEW	94-08-101
246-824	PREP	94-10-026	246-839-310	PREP	94-10-056	246-878-120	NEW-P	94-02-079
246-824-200	NEW-P	94-02-057	246-839-310	PREP	94-11-079	246-878-120	NEW	94-08-101
246-824-210	NEW-P	94-02-057	246-839-320	PREP	94-10-056	246-883-030	AMD-P	94-02-078
246-824-220	NEW-P	94-02-057	246-839-320	PREP	94-11-079	246-883-030	AMD	94-08-100
246-824-220	NEW	94-06-047	246-839-330	PREP	94-10-056	246-886-030	AMD	94-02-060
246-824-230	NEW-P	94-02-057	246-839-330	PREP	94-11-079	246-887	AMD-C	94-02-089
246-824-230	NEW	94-06-047	246-839-340	PREP	94-10-056	246-887-100	AMD-P	94-04-111
246-824-990	AMD-P	94-05-032	246-839-340	PREP	94-11-079	246-887-100	AMD	94-07-105
246-824-990	AMD	94-08-078	246-839-350	PREP	94-10-056	246-887-100	AMD	94-08-098
246-828-055	NEW-P	94-08-037	246-839-350	PREP	94-11-079	246-887-133	NEW	94-08-098
246-828-055	NEW	94-11-108	246-839-360	PREP	94-10-056	246-887-140	AMD-P	94-04-111
246-828-060	AMD-P	94-08-037	246-839-360	PREP	94-11-079	246-887-140	AMD	94-07-105
246-828-060	AMD	94-11-108	246-839-365	PREP	94-10-056	246-887-150	AMD-P	94-04-111
246-828-065	NEW-P	94-08-037	246-839-365	PREP	94-11-079	246-887-150	AMD	94-07-105
246-828-065	NEW	94-11-108	246-843-010	PREP	94-14-031	246-887-160	AMD	94-08-098
246-828-070	AMD-P	94-08-037	246-843-090	PREP	94-14-031	246-887-170	AMD	94-08-098
246-828-070	AMD	94-11-108	246-843-205	PREP	94-14-031	246-889-020	AMD-P	94-04-111
246-828-990	AMD	94-08-038	246-843-240	PREP	94-14-031	246-889-020	AMD	94-07-105
246-830	PREP	94-13-178	246-843-320	PREP	94-14-031	246-901-010	NEW-P	94-04-112
246-830-010	NEW-P	94-06-045	246-843-990	AMD-P	94-05-065	246-901-010	NEW	94-08-097
246-830-010	NEW	94-13-181	246-843-990	AMD	94-09-006	246-901-020	AMD-P	94-04-112
246-830-030	REP-P	94-05-080	246-847-040	AMD-P	94-10-059	246-901-020	AMD	94-08-097
246-830-030	REP	94-13-181	246-847-050	AMD-P	94-10-059	246-901-030	AMD-P	94-04-112
246-830-035	NEW-P	94-05-080	246-847-060	AMD-P	94-10-059	246-901-030	AMD	94-08-097
246-830-035	NEW	94-13-181	246-847-068	AMD-P	94-10-059	246-901-035	NEW-P	94-04-112
246-830-230	PREP	94-13-178	246-847-190	AMD-P	94-10-059	246-901-035	NEW	94-08-097
246-830-255	NEW-P	94-06-045	246-851	PREP	94-10-026	246-901-100	AMD-P	94-04-112
246-830-255	NEW	94-13-181	246-851-110	AMD	94-04-041	246-901-100	AMD	94-08-097
246-830-280	NEW-P	94-05-080	246-851-540	NEW-W	94-13-086	246-901-130	AMD-P	94-04-112
246-830-280	NEW	94-13-181	246-851-550	NEW	94-04-041	246-901-130	AMD	94-08-097
246-830-290	NEW-P	94-05-080	246-852-010	NEW-P	94-14-080	246-907-020	AMD-P	94-08-096
246-830-290	NEW	94-13-181	246-852-020	NEW-P	94-14-080	246-907-020	AMD	94-14-038
246-830-410	AMD-P	94-06-045	246-852-030	NEW-P	94-14-080	246-907-030	AMD	94-05-036
246-830-410	AMD	94-13-181	246-852-040	NEW-P	94-14-080	246-915-040	AMD	94-05-014
246-830-430	AMD-P	94-06-045	246-853-025	AMD-P	94-11-093	246-915-050	AMD	94-05-014
246-830-430	AMD	94-13-181	246-853-260	AMD-P	94-11-093	246-915-078	NEW	94-05-014
246-830-460	NEW-P	94-05-080	246-853-500	NEW-P	94-11-093	246-915-085	NEW	94-05-014
246-830-460	NEW	94-13-181	246-854-030	AMD-P	94-11-093	246-915-090	AMD	94-05-014
246-830-465	NEW-P	94-05-080	246-854-080	AMD-P	94-11-093	246-915-120	AMD	94-05-014
246-830-465	NEW	94-13-181	246-856-001	NEW-P	94-11-089	246-915-140	AMD	94-05-014
246-830-470	NEW-P	94-05-080	246-856-001	NEW-C	94-13-053	246-915-160	AMD	94-05-014
246-830-470	NEW	94-13-181	246-856-020	NEW-P	94-11-089	246-915-340	NEW	94-05-014
246-830-475	NEW-P	94-05-080	246-856-020	NEW-C	94-13-053	246-917-100	AMD-P	94-08-095
246-830-475	NEW	94-13-181	246-861	PREP	94-11-092	246-917-120	AMD-P	94-08-095
246-830-480	NEW-P	94-05-080	246-863-020	AMD-P	94-04-113	246-918-095	NEW-P	94-08-094
246-830-480	NEW	94-13-181	246-863-020	AMD	94-08-099	246-918-105	NEW-P	94-08-094
246-830-485	NEW-P	94-05-080	246-863-030	AMD-P	94-04-113	246-920-115	NEW-P	94-07-011
246-830-990	PREP	94-13-178	246-863-030	AMD	94-08-099	246-922-032	NEW	94-05-051
246-838-040	AMD-P	94-05-033	246-865-060	AMD	94-02-077	246-922-033	NEW	94-05-051
246-838-040	AMD	94-08-050	246-869	PREP	94-11-090	246-922-100	AMD	94-05-051
246-838-070	AMD-P	94-05-033	246-875	PREP	94-11-091	246-922-110	REP	94-05-051
246-838-070	AMD	94-08-050	246-878-010	NEW-P	94-02-079	246-922-120	AMD	94-05-051
246-838-080	AMD-P	94-05-033	246-878-010	NEW	94-08-101	246-922-220	REP	94-05-051
246-838-080	AMD	94-08-050	246-878-020	NEW-P	94-02-079	246-922-250	REP	94-05-051
246-838-090	AMD-P	94-05-033	246-878-020	NEW	94-08-101	246-922-260	AMD	94-05-051
246-838-090	AMD	94-08-050	246-878-030	NEW-P	94-02-079	246-922-300	AMD	94-05-051
246-838-110	AMD-P	94-05-033	246-878-030	NEW	94-08-101	246-922-310	AMD	94-05-051
246-838-110	AMD	94-08-050	246-878-040	NEW-P	94-02-079	246-922-400	NEW-P	94-08-079
246-838-180	AMD-P	94-05-033	246-878-040	NEW	94-08-101	246-922-400	NEW	94-14-082
246-838-180	AMD	94-08-050	246-878-050	NEW-P	94-02-079	246-922-405	NEW-P	94-08-079
246-838-990	AMD-P	94-05-035	246-878-050	NEW	94-08-101	246-922-405	NEW	94-14-082
246-838-990	AMD	94-08-102	246-878-060	NEW-P	94-02-079	246-922-410	NEW-P	94-08-079

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
246-922-410	NEW	94-14-082	246-930-210	AMD	94-13-179	250-62-150	NEW-W	94-06-018
246-922-415	NEW-P	94-08-079	246-930-220	AMD-P	94-09-027	250-62-160	NEW-W	94-06-018
246-922-415	NEW	94-14-082	246-930-220	AMD	94-13-179	250-62-170	NEW-W	94-06-018
246-922-500	NEW-P	94-05-081	246-930-300	AMD-P	94-09-027	250-62-180	NEW-W	94-06-018
246-922-500	NEW	94-09-008	246-930-300	AMD	94-13-179	250-62-190	NEW-W	94-06-018
246-924-020	AMD-P	94-08-039	246-930-301	AMD-P	94-09-027	250-62-200	NEW-W	94-06-018
246-924-020	AMD	94-12-039	246-930-301	AMD	94-13-179	250-62-210	NEW-W	94-06-018
246-924-040	AMD-P	94-08-039	246-930-310	AMD-P	94-09-027	250-66-030	AMD-P	94-09-060
246-924-040	AMD	94-12-039	246-930-310	AMD	94-13-179	250-66-030	AMD	94-14-007
246-924-050	AMD-P	94-08-039	246-930-320	AMD-P	94-09-027	250-78-010	AMD-P	94-09-061
246-924-050	AMD	94-12-039	246-930-320	AMD	94-13-179	250-78-010	AMD	94-14-008
246-924-080	AMD-P	94-08-039	246-930-330	AMD-P	94-09-027	250-78-020	AMD-P	94-09-061
246-924-080	AMD	94-12-039	246-930-330	AMD	94-13-179	250-78-020	AMD	94-14-008
246-924-095	NEW-P	94-08-039	246-930-340	AMD-P	94-09-027	250-78-030	AMD-P	94-09-061
246-924-095	NEW-E	94-09-024	246-930-340	AMD	94-13-179	250-78-030	AMD	94-14-008
246-924-095	NEW	94-12-039	246-930-410	AMD-P	94-09-027	250-78-040	AMD-P	94-09-061
246-924-110	AMD-P	94-08-039	246-930-410	AMD	94-13-179	250-78-040	AMD	94-14-008
246-924-110	AMD	94-12-039	246-930-420	NEW-P	94-09-027	250-78-050	AMD-P	94-09-061
246-924-120	AMD-P	94-08-039	246-930-420	NEW	94-13-179	250-78-050	AMD	94-14-008
246-924-120	AMD	94-12-039	246-930-430	NEW-P	94-09-027	250-78-060	AMD-P	94-09-061
246-924-130	AMD-P	94-08-039	246-930-430	NEW	94-13-179	250-78-060	AMD	94-14-008
246-924-130	AMD	94-12-039	246-930-490	NEW-P	94-09-027	250-79-010	NEW-C	94-04-093
246-924-190	REP-P	94-08-039	246-930-490	NEW	94-13-179	250-79-010	NEW	94-14-064
246-924-190	REP	94-12-039	246-930-990	AMD-P	94-09-027	251-04-040	AMD-P	94-12-059
246-924-200	REP-P	94-08-039	246-930-990	AMD	94-13-179	251-04-105	AMD-P	94-12-057
246-924-200	REP	94-12-039	246-937-020	NEW-E	94-08-051	251-06-020	AMD-P	94-12-058
246-924-210	REP-P	94-08-039	246-937-020	NEW-P	94-08-052	251-08-112	AMD-P	94-12-058
246-924-210	REP	94-12-039	246-937-030	NEW-E	94-08-051	251-23-010	REP-W	94-04-010
246-924-220	REP-P	94-08-039	246-937-030	NEW-P	94-08-052	251-23-015	REP-W	94-04-010
246-924-220	REP	94-12-039	246-937-040	NEW-E	94-08-051	251-23-020	REP-W	94-04-010
246-924-230	AMD-P	94-08-039	246-937-040	NEW-P	94-08-052	251-23-030	REP-W	94-04-010
246-924-230	AMD	94-12-039	246-937-070	NEW-E	94-08-051	251-23-040	REP-W	94-04-010
246-924-240	AMD-P	94-08-039	246-937-070	NEW-P	94-08-052	251-23-050	REP-W	94-04-010
246-924-240	AMD	94-12-039	246-937-080	NEW-E	94-08-051	251-23-060	REP-W	94-04-010
246-924-250	AMD-P	94-08-039	246-937-080	NEW-P	94-08-052	253-02-040	AMD-P	94-12-092
246-924-250	AMD	94-12-039	246-937-090	NEW-E	94-08-051	253-16-090	AMD-P	94-12-092
246-924-260	REP-P	94-08-039	246-937-090	NEW-P	94-08-052	259-04-060	AMD-E	94-07-059
246-924-260	REP	94-12-039	246-937-990	NEW-P	94-08-076	259-04-060	AMD-P	94-07-096
246-924-270	REP-P	94-08-039	246-937-990	NEW-E	94-08-077	259-04-060	AMD	94-12-029
246-924-270	REP	94-12-039	247-04-010	NEW-P	94-12-021	260-12-010	AMD-W	94-09-003
246-924-280	REP-P	94-08-039	247-04-020	NEW-P	94-12-021	260-12-090	REP-W	94-09-003
246-924-280	REP	94-12-039	247-04-030	NEW-P	94-12-021	260-24-010	AMD-W	94-09-003
246-924-290	AMD-P	94-08-039	247-04-040	NEW-P	94-12-021	260-24-080	AMD-W	94-09-003
246-924-290	AMD	94-12-039	247-06-010	NEW-P	94-12-022	260-24-110	AMD-W	94-09-003
246-924-300	AMD-P	94-08-039	247-06-020	NEW-P	94-12-022	260-24-120	AMD-W	94-09-003
246-924-300	AMD	94-12-039	247-06-030	NEW-P	94-12-022	260-24-140	AMD-W	94-09-003
246-924-310	REP-P	94-08-039	250-40	AMD-P	94-09-058	260-24-150	AMD-W	94-09-003
246-924-310	REP	94-12-039	250-40	AMD	94-14-006	260-24-170	AMD-W	94-09-003
246-924-320	AMD-P	94-08-039	250-40-020	AMD-P	94-09-058	260-24-180	AMD-W	94-09-003
246-924-320	AMD	94-12-039	250-40-020	AMD	94-14-006	260-24-200	AMD-W	94-09-003
246-924-460	REP-P	94-08-039	250-40-040	AMD-P	94-09-058	260-24-210	AMD-W	94-09-003
246-924-460	REP	94-12-039	250-40-040	AMD	94-14-006	260-24-285	AMD-W	94-09-003
246-924-490	NEW-P	94-08-039	250-40-050	AMD-P	94-09-058	260-24-290	AMD-W	94-09-003
246-924-490	NEW	94-12-039	250-40-050	AMD	94-14-006	260-24-315	AMD-W	94-09-003
246-930-010	AMD-P	94-09-027	250-40-070	AMD-P	94-09-058	260-24-440	AMD-W	94-09-003
246-930-010	AMD	94-13-179	250-40-070	AMD	94-14-006	260-24-460	AMD-W	94-09-003
246-930-020	AMD-P	94-09-027	250-44-050	AMD-P	94-10-001	260-24-470	AMD-W	94-09-003
246-930-020	AMD	94-13-179	250-44-110	AMD-P	94-10-001	260-24-500	AMD-W	94-09-003
246-930-030	AMD-P	94-09-027	250-44-130	AMD-P	94-10-001	260-24-510	AMD-W	94-09-003
246-930-030	AMD	94-13-179	250-62-010	NEW-W	94-06-018	260-24-520	AMD-W	94-09-003
246-930-040	AMD-P	94-09-027	250-62-020	NEW-W	94-06-018	260-34-030	AMD-W	94-09-003
246-930-040	AMD	94-13-179	250-62-030	NEW-W	94-06-018	260-36-080	AMD	94-04-002
246-930-050	AMD-P	94-09-027	250-62-040	NEW-W	94-06-018	260-48-322	AMD-P	94-05-077
246-930-050	AMD	94-13-179	250-62-050	NEW-W	94-06-018	260-48-324	AMD-P	94-05-076
246-930-060	AMD-P	94-09-027	250-62-060	NEW-W	94-06-018	260-48-328	AMD-P	94-05-075
246-930-060	AMD	94-13-179	250-62-070	NEW-W	94-06-018	260-70-010	AMD-W	94-09-003
246-930-070	AMD-P	94-09-027	250-62-080	NEW-W	94-06-018	260-70-040	AMD	94-04-002
246-930-070	AMD	94-13-179	250-62-090	NEW-W	94-06-018	260-72-020	AMD	94-04-003
246-930-075	AMD-P	94-09-027	250-62-100	NEW-W	94-06-018	275-16-030	AMD-P	94-13-051
246-930-075	AMD	94-13-179	250-62-110	NEW-W	94-06-018	275-16-030	AMD-E	94-14-005
246-930-200	AMD-P	94-09-027	250-62-120	NEW-W	94-06-018	275-27-220	AMD	94-04-092
246-930-200	AMD	94-13-179	250-62-130	NEW-W	94-06-018	275-27-221	NEW	94-04-092
246-930-210	AMD-P	94-09-027	250-62-140	NEW-W	94-06-018	275-27-223	AMD	94-04-092

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
275-30-020	AMD-P	94-12-026	275-56-385	REP-P	94-12-005	275-57-390	NEW-P	94-12-005
275-35-030	AMD-P	94-08-007	275-56-400	REP-P	94-12-005	275-57-400	NEW-P	94-12-005
275-35-030	AMD	94-11-065	275-56-425	REP-P	94-12-005	275-57-410	NEW-P	94-12-005
275-35-060	AMD-P	94-08-007	275-56-445	REP-P	94-12-005	275-57-420	NEW-P	94-12-005
275-35-060	AMD	94-11-065	275-56-447	REP-P	94-12-005	275-57-430	NEW-P	94-12-005
275-35-070	AMD-P	94-08-007	275-56-465	REP-P	94-12-005	275-57-440	NEW-P	94-12-005
275-35-070	AMD	94-11-065	275-56-475	REP-P	94-12-005	275-57-450	NEW-P	94-12-005
275-35-080	AMD-P	94-08-007	275-56-485	REP-P	94-12-005	275-57-460	NEW-P	94-12-005
275-35-080	AMD	94-11-065	275-56-495	REP-P	94-12-005	275-57-470	NEW-P	94-12-005
275-47-010	NEW-P	94-12-066	275-56-505	REP-P	94-12-005	275-59-072	NEW-E	94-03-004
275-47-020	NEW-P	94-12-066	275-56-515	REP-P	94-12-005	275-59-072	NEW-P	94-03-005
275-47-030	NEW-P	94-12-066	275-56-600	NEW	94-07-020	275-59-072	NEW	94-06-025
275-47-040	NEW-P	94-12-066	275-56-600	REP-P	94-12-005	275-156-010	AMD-P	94-07-087
275-55-221	NEW-E	94-03-004	275-56-610	NEW	94-07-020	275-156-010	AMD	94-12-006
275-55-221	NEW-P	94-03-005	275-56-610	REP-P	94-12-005	275-156-015	AMD-P	94-07-087
275-55-221	NEW	94-06-025	275-56-630	NEW	94-07-020	275-156-015	AMD	94-12-006
275-56-005	REP-P	94-12-005	275-56-630	REP-P	94-12-005	275-156-020	AMD-P	94-07-087
275-56-010	REP-P	94-12-005	275-56-640	NEW	94-07-020	275-156-020	AMD	94-12-006
275-56-015	AMD	94-07-020	275-56-640	REP-P	94-12-005	275-156-025	AMD-P	94-07-087
275-56-015	REP-P	94-12-005	275-56-650	NEW	94-07-020	275-156-025	AMD	94-12-006
275-56-016	REP-P	94-12-005	275-56-650	REP-P	94-12-005	275-156-030	AMD-P	94-07-087
275-56-017	REP-P	94-12-005	275-56-660	NEW	94-07-020	275-156-030	AMD	94-12-006
275-56-020	REP-P	94-12-005	275-56-660	REP-P	94-12-005	284-07-060	AMD	94-04-045
275-56-025	REP-P	94-12-005	275-56-670	NEW	94-07-020	284-07-100	AMD	94-04-045
275-56-035	REP-P	94-12-005	275-56-670	REP-P	94-12-005	284-07-110	AMD	94-04-045
275-56-040	REP-P	94-12-005	275-56-680	NEW	94-07-020	284-07-130	AMD	94-04-045
275-56-042	REP-P	94-12-005	275-56-680	REP-P	94-12-005	284-07-140	AMD	94-04-045
275-56-043	REP-P	94-12-005	275-56-690	NEW	94-07-020	284-07-180	AMD	94-04-045
275-56-050	REP-P	94-12-005	275-56-690	REP-P	94-12-005	284-07-220	AMD	94-04-045
275-56-055	REP-P	94-12-005	275-56-700	NEW	94-07-020	284-10	NEW-C	94-02-065
275-56-060	REP-P	94-12-005	275-56-700	REP-P	94-12-005	284-10	NEW-C	94-03-048
275-56-065	REP-P	94-12-005	275-56-710	NEW	94-07-020	284-10	NEW-C	94-08-006
275-56-070	REP-P	94-12-005	275-56-710	REP-P	94-12-005	284-10-010	NEW-E	94-03-084
275-56-075	REP-P	94-12-005	275-56-720	NEW	94-07-020	284-10-010	NEW-W	94-03-085
275-56-080	REP-P	94-12-005	275-56-720	REP-P	94-12-005	284-10-010	NEW-P	94-04-126
275-56-085	REP-P	94-12-005	275-57-010	NEW-P	94-12-005	284-10-010	NEW	94-08-060
275-56-087	REP-P	94-12-005	275-57-020	NEW-P	94-12-005	284-10-015	NEW-E	94-03-084
275-56-088	REP-P	94-12-005	275-57-030	NEW-P	94-12-005	284-10-015	NEW-W	94-03-085
275-56-089	REP-P	94-12-005	275-57-040	NEW-P	94-12-005	284-10-015	NEW-P	94-04-126
275-56-090	REP-P	94-12-005	275-57-050	NEW-P	94-12-005	284-10-015	NEW	94-08-060
275-56-095	REP-P	94-12-005	275-57-060	NEW-P	94-12-005	284-10-020	NEW-E	94-03-084
275-56-100	REP-P	94-12-005	275-57-070	NEW-P	94-12-005	284-10-020	NEW-W	94-03-085
275-56-105	REP-P	94-12-005	275-57-080	NEW-P	94-12-005	284-10-020	NEW-P	94-04-126
275-56-110	REP-P	94-12-005	275-57-090	NEW-P	94-12-005	284-10-020	NEW	94-08-060
275-56-115	REP-P	94-12-005	275-57-100	NEW-P	94-12-005	284-10-030	NEW-E	94-03-084
275-56-135	REP-P	94-12-005	275-57-110	NEW-P	94-12-005	284-10-030	NEW-W	94-03-085
275-56-150	REP-P	94-12-005	275-57-120	NEW-P	94-12-005	284-10-030	NEW-P	94-04-126
275-56-170	REP-P	94-12-005	275-57-130	NEW-P	94-12-005	284-10-030	NEW	94-08-060
275-56-175	REP-P	94-12-005	275-57-140	NEW-P	94-12-005	284-10-050	NEW-P	94-04-125
275-56-180	REP-P	94-12-005	275-57-150	NEW-P	94-12-005	284-10-050	NEW	94-08-081
275-56-185	REP-P	94-12-005	275-57-160	NEW-P	94-12-005	284-10-050	AMD-P	94-11-082
275-56-195	REP-P	94-12-005	275-57-170	NEW-P	94-12-005	284-10-050	AMD	94-13-216
275-56-200	REP-P	94-12-005	275-57-180	NEW-P	94-12-005	284-10-060	NEW-E	94-03-084
275-56-205	REP-P	94-12-005	275-57-190	NEW-P	94-12-005	284-10-060	NEW-W	94-03-085
275-56-210	REP-P	94-12-005	275-57-200	NEW-P	94-12-005	284-10-060	NEW-P	94-04-126
275-56-215	REP-P	94-12-005	275-57-210	NEW-P	94-12-005	284-10-060	NEW	94-08-060
275-56-220	REP-P	94-12-005	275-57-220	NEW-P	94-12-005	284-10-070	NEW-E	94-03-084
275-56-225	REP-P	94-12-005	275-57-230	NEW-P	94-12-005	284-10-070	NEW-W	94-03-085
275-56-230	REP-P	94-12-005	275-57-240	NEW-P	94-12-005	284-10-070	NEW-P	94-04-126
275-56-235	REP-P	94-12-005	275-57-250	NEW-P	94-12-005	284-10-070	NEW	94-08-060
275-56-240	REP-P	94-12-005	275-57-260	NEW-P	94-12-005	284-10-080	NEW-W	94-03-085
275-56-245	REP-P	94-12-005	275-57-270	NEW-P	94-12-005	284-10-090	NEW-E	94-03-084
275-56-260	REP-P	94-12-005	275-57-280	NEW-P	94-12-005	284-10-090	NEW-W	94-03-085
275-56-275	REP-P	94-12-005	275-57-290	NEW-P	94-12-005	284-10-090	NEW-P	94-04-126
275-56-285	REP-P	94-12-005	275-57-300	NEW-P	94-12-005	284-10-090	NEW	94-08-060
275-56-290	REP-P	94-12-005	275-57-310	NEW-P	94-12-005	284-10-100	NEW-W	94-03-085
275-56-295	REP-P	94-12-005	275-57-320	NEW-P	94-12-005	284-10-110	NEW-W	94-03-085
275-56-300	REP-P	94-12-005	275-57-330	NEW-P	94-12-005	284-10-120	NEW-W	94-03-085
275-56-305	REP-P	94-12-005	275-57-340	NEW-P	94-12-005	284-10-130	NEW-W	94-03-085
275-56-335	REP-P	94-12-005	275-57-350	NEW-P	94-12-005	284-10-140	NEW-W	94-03-085
275-56-340	REP-P	94-12-005	275-57-360	NEW-P	94-12-005	284-10-150	NEW-W	94-03-085
275-56-355	REP-P	94-12-005	275-57-370	NEW-P	94-12-005	284-10-160	NEW-W	94-03-085
275-56-365	REP-P	94-12-005	275-57-380	NEW-P	94-12-005	284-10-170	NEW-W	94-03-085

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
284-10-180	NEW-W	94-03-085	284-51-045	NEW-P	94-11-122	286-06-130	REP-P	94-13-196
284-10-190	NEW-W	94-03-085	284-51-050	AMD-P	94-11-122	286-06-140	REP-P	94-13-196
284-10-200	NEW-W	94-03-085	284-51-060	AMD-P	94-11-122	286-06-150	REP-P	94-13-196
284-12-090	AMD-P	94-11-100	284-51-070	REP-P	94-11-122	286-06-990	REP-P	94-13-196
284-12-090	AMD	94-14-110	284-51-075	AMD-P	94-11-122	286-13-010	NEW-P	94-13-196
284-12-270	AMD-P	94-11-100	284-51-120	AMD-P	94-11-122	286-13-020	NEW-P	94-13-196
284-12-270	AMD	94-14-110	284-51-130	AMD-P	94-11-122	286-13-030	NEW-P	94-13-196
284-13-110	REP-P	94-05-089	284-51-140	AMD-P	94-11-122	286-13-040	NEW-P	94-13-196
284-13-110	REP-C	94-08-013	284-51-150	AMD-P	94-11-122	286-13-050	NEW-P	94-13-196
284-13-110	REP-C	94-10-024	284-51-160	REP-P	94-11-122	286-13-060	NEW-P	94-13-196
284-13-110	REP	94-12-077	284-51-170	AMD-P	94-11-122	286-13-070	NEW-P	94-13-196
284-13-120	REP-P	94-05-089	284-54	AMD-C	94-13-217	286-13-080	NEW-P	94-13-196
284-13-120	REP-C	94-08-013	284-54-020	AMD-P	94-09-050	286-13-085	NEW-P	94-13-196
284-13-120	REP-C	94-10-024	284-54-020	AMD-S	94-11-096	286-13-090	NEW-P	94-13-196
284-13-120	REP	94-12-077	284-54-020	AMD	94-14-100	286-13-100	NEW-P	94-13-196
284-13-130	REP-P	94-05-089	284-54-150	AMD-P	94-09-050	286-13-110	NEW-P	94-13-196
284-13-130	REP-C	94-08-013	284-54-150	AMD-S	94-11-096	286-13-115	NEW-P	94-13-196
284-13-130	REP-C	94-10-024	284-54-150	AMD	94-14-100	286-13-120	NEW-P	94-13-196
284-13-130	REP	94-12-077	284-54-200	NEW-P	94-09-050	286-26-010	AMD-P	94-13-196
284-13-140	REP-P	94-05-089	284-54-200	NEW-S	94-11-096	286-26-020	AMD-P	94-13-196
284-13-140	REP-C	94-08-013	284-54-200	NEW	94-14-100	286-26-030	AMD-P	94-13-196
284-13-140	REP-C	94-10-024	284-54-210	NEW-P	94-09-050	286-26-040	REP-P	94-13-196
284-13-140	REP	94-12-077	284-54-210	NEW-S	94-11-096	286-26-055	REP-P	94-13-196
284-13-150	REP-P	94-05-089	284-54-210	NEW	94-14-100	286-26-060	REP-P	94-13-196
284-13-150	REP-C	94-08-013	284-54-260	NEW-P	94-09-050	286-26-070	REP-P	94-13-196
284-13-150	REP-C	94-10-024	284-54-260	NEW-S	94-11-096	286-26-080	NEW-P	94-13-196
284-13-150	REP	94-12-077	284-54-260	NEW	94-14-100	286-26-090	NEW-P	94-13-196
284-13-800	NEW-P	94-05-089	284-54-270	NEW-P	94-09-050	286-26-100	NEW-P	94-13-196
284-13-800	NEW-C	94-08-013	284-54-270	NEW-S	94-11-096	286-30-010	NEW-P	94-13-196
284-13-800	NEW-C	94-10-024	284-54-270	NEW	94-14-100	286-30-020	NEW-P	94-13-196
284-13-800	NEW-W	94-12-077	284-87-040	AMD-P	94-09-049	286-30-030	NEW-P	94-13-196
284-13-810	NEW-P	94-05-089	284-87-040	AMD	94-13-006	286-30-040	NEW-P	94-13-196
284-13-810	NEW-C	94-08-013	284-87-090	AMD-P	94-09-049	286-35-010	NEW-P	94-13-196
284-13-810	NEW-C	94-10-024	284-87-090	AMD	94-13-006	286-35-020	NEW-P	94-13-196
284-13-810	NEW-W	94-12-077	284-87-100	AMD-P	94-09-049	286-35-030	NEW-P	94-13-196
284-13-820	NEW-P	94-05-089	284-87-100	AMD	94-13-006	286-35-040	NEW-P	94-13-196
284-13-820	NEW-C	94-08-013	284-97-010	PREP	94-05-071	286-35-050	NEW-P	94-13-196
284-13-820	NEW-C	94-10-024	284-97-020	PREP	94-05-071	286-35-060	NEW-P	94-13-196
284-13-820	NEW-W	94-12-077	284-97-030	PREP	94-05-071	286-35-070	NEW-P	94-13-196
284-13-830	NEW-P	94-05-089	284-97-040	PREP	94-05-071	286-35-080	NEW-P	94-13-196
284-13-830	NEW-C	94-08-013	284-97-050	PREP	94-05-071	286-35-090	NEW-P	94-13-196
284-13-830	NEW-C	94-10-024	284-97-060	PREP	94-05-071	286-40-010	NEW-P	94-13-196
284-13-830	NEW-W	94-12-077	284-97-070	PREP	94-05-071	286-40-020	NEW-P	94-13-196
284-17-120	AMD-P	94-11-100	284-97-080	PREP	94-05-071	286-40-030	NEW-P	94-13-196
284-17-120	AMD	94-14-033	284-97-100	PREP	94-05-071	286-40-040	NEW-P	94-13-196
284-17-121	AMD-P	94-11-100	284-97-110	PREP	94-05-071	286-40-050	NEW-P	94-13-196
284-17-121	AMD	94-14-033	284-97-120	PREP	94-05-071	286-40-060	NEW-P	94-13-196
284-17-220	AMD-P	94-11-100	284-97-130	PREP	94-05-071	296-15-020	AMD-C	94-03-006
284-17-220	AMD	94-14-033	284-97-140	PREP	94-05-071	296-15-020	AMD	94-05-042
284-17-250	AMD-P	94-11-100	284-97-150	PREP	94-05-071	296-15-02601	AMD-P	94-12-096
284-17-250	AMD	94-14-033	284-97-160	PREP	94-05-071	296-15-02606	NEW-C	94-03-006
284-17-260	AMD-P	94-11-100	286-04-010	AMD-P	94-13-196	296-15-02606	NEW	94-05-042
284-17-260	AMD	94-14-033	286-04-015	NEW-P	94-13-196	296-15-030	AMD-C	94-03-006
284-17-290	AMD-P	94-11-100	286-04-020	AMD-P	94-13-196	296-15-030	AMD	94-05-042
284-17-290	AMD	94-14-033	286-04-030	AMD-P	94-13-196	296-15-060	AMD-P	94-12-096
284-17-320	AMD-P	94-11-100	286-04-050	AMD-P	94-13-196	296-15-070	AMD-P	94-12-096
284-17-320	AMD	94-14-033	286-04-060	AMD-P	94-13-196	296-15-072	AMD-P	94-12-096
284-17-400	AMD-P	94-11-100	286-04-065	NEW-P	94-13-196	296-15-160	AMD-P	94-12-096
284-17-400	AMD	94-14-033	286-04-070	AMD-P	94-13-196	296-15-170	AMD-C	94-03-006
284-17-410	AMD-P	94-11-100	286-04-085	NEW-P	94-13-196	296-15-170	AMD	94-05-042
284-17-410	AMD	94-14-033	286-04-090	NEW-P	94-13-196	296-17-350	AMD-P	94-07-127
284-17-420	AMD-P	94-11-100	286-06-010	REP-P	94-13-196	296-17-350	AMD	94-12-050
284-17-420	AMD	94-14-033	286-06-030	REP-P	94-13-196	296-17-45005	NEW-P	94-06-055
284-30	PREP	94-05-056	286-06-040	REP-P	94-13-196	296-17-45005	NEW	94-12-051
284-30-450	PREP	94-05-070	286-06-050	AMD-P	94-13-196	296-17-501	AMD-P	94-07-129
284-43-040	NEW-P	94-10-077	286-06-060	AMD-P	94-13-196	296-17-501	AMD	94-12-051
284-44	PREP	94-05-056	286-06-065	NEW-P	94-13-196	296-17-506	REP-P	94-07-129
284-46	PREP	94-05-056	286-06-070	AMD-P	94-13-196	296-17-506	REP	94-12-051
284-51-010	AMD-P	94-11-122	286-06-080	AMD-P	94-13-196	296-17-50602	AMD-P	94-07-128
284-51-015	NEW-P	94-11-122	286-06-090	AMD-P	94-13-196	296-17-50602	AMD	94-12-063
284-51-020	AMD-P	94-11-122	286-06-100	AMD-P	94-13-196	296-17-519	AMD-P	94-07-128
284-51-030	AMD-P	94-11-122	286-06-110	AMD-P	94-13-196	296-17-519	AMD	94-12-063
284-51-040	AMD-P	94-11-122	286-06-120	AMD-P	94-13-196	296-17-52104	AMD-P	94-07-128

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
296-17-52104	AMD	94-12-063	296-23-230	REP-P	94-07-126	296-24-59215	AMD-P	94-10-010
296-17-524	AMD-P	94-07-128	296-23-235	REP-P	94-07-126	296-24-63299	AMD-P	94-10-010
296-17-524	AMD	94-12-063	296-23A-400	AMD-P	94-07-126	296-24-63399	AMD-P	94-10-010
296-17-528	AMD-P	94-07-128	296-24-001	AMD-P	94-10-010	296-24-63499	AMD-P	94-10-010
296-17-528	AMD	94-12-063	296-24-006	AMD-P	94-10-010	296-24-65501	AMD-P	94-10-010
296-17-53504	AMD-P	94-07-128	296-24-010	AMD-P	94-10-010	296-24-66305	AMD-P	94-10-010
296-17-53504	AMD	94-12-063	296-24-012	AMD-P	94-10-010	296-24-66319	AMD-P	94-10-010
296-17-536	AMD-P	94-07-128	296-24-015	AMD-P	94-10-010	296-24-66321	AMD-P	94-10-010
296-17-536	AMD	94-12-063	296-24-020	AMD-P	94-10-010	296-24-67005	AMD-P	94-10-010
296-17-558	REP-P	94-07-128	296-24-040	AMD-P	94-10-010	296-24-67507	AMD-P	94-10-010
296-17-558	REP	94-12-063	296-24-045	AMD-P	94-10-010	296-24-67515	AMD-P	94-10-010
296-17-56101	AMD-P	94-07-128	296-24-060	AMD-P	94-10-010	296-24-68201	AMD-P	94-10-010
296-17-56101	AMD	94-12-063	296-24-065	AMD-P	94-10-010	296-24-68501	AMD-P	94-10-010
296-17-650	AMD-P	94-07-128	296-24-073	AMD-P	94-10-010	296-24-68507	AMD-P	94-10-010
296-17-650	AMD	94-12-063	296-24-088	AMD-P	94-10-010	296-24-69001	AMD-P	94-10-010
296-17-66003	NEW-P	94-06-055	296-24-11001	AMD	94-06-068	296-24-69011	AMD-P	94-10-010
296-17-66003	NEW	94-12-051	296-24-12001	AMD	94-06-068	296-24-69503	AMD-P	94-10-010
296-17-686	AMD-P	94-07-128	296-24-12511	AMD-P	94-10-010	296-24-70007	AMD-P	94-10-010
296-17-686	AMD	94-12-063	296-24-14009	AMD-P	94-10-010	296-24-71503	AMD-P	94-10-010
296-17-704	AMD-P	94-07-128	296-24-14011	AMD	94-06-068	296-24-71507	AMD-P	94-10-010
296-17-704	AMD	94-12-063	296-24-14011	AMD-P	94-10-010	296-24-71513	AMD-P	94-10-010
296-17-706	AMD-P	94-07-128	296-24-14507	AMD-P	94-10-010	296-24-71517	AMD-P	94-10-010
296-17-706	AMD	94-12-063	296-24-14509	AMD-P	94-10-010	296-24-71519	AMD-P	94-10-010
296-17-779	AMD-P	94-07-128	296-24-14513	AMD-P	94-10-010	296-24-73501	AMD	94-06-068
296-17-779	AMD	94-12-063	296-24-14515	AMD-P	94-10-010	296-24-73505	AMD-P	94-10-010
296-17-895	AMD-P	94-06-055	296-24-14519	AMD-P	94-10-010	296-24-73509	AMD-P	94-10-010
296-17-895	AMD	94-12-051	296-24-15001	AMD-P	94-10-010	296-24-75001	AMD-P	94-10-010
296-20-010	AMD-P	94-07-126	296-24-15005	AMD-P	94-10-010	296-24-78009	AMD-P	94-10-010
296-20-010	AMD	94-14-044	296-24-16505	AMD-P	94-10-010	296-24-79505	AMD-P	94-10-010
296-20-01505	NEW-P	94-07-126	296-24-16539	AMD-P	94-10-010	296-24-79507	AMD-P	94-10-010
296-20-01505	NEW	94-14-044	296-24-19501	AMD-P	94-10-010	296-24-81001	AMD-P	94-10-010
296-20-110	AMD-P	94-07-126	296-24-19507	AMD-P	94-10-010	296-24-81009	AMD-P	94-10-010
296-20-110	AMD	94-14-044	296-24-19513	AMD-P	94-10-010	296-24-81013	AMD-P	94-10-010
296-20-135	AMD	94-03-008	296-24-19517	AMD-P	94-10-010	296-24-82501	AMD-P	94-10-010
296-20-370	AMD	94-03-073	296-24-20003	AMD-P	94-10-010	296-24-82503	AMD-P	94-10-010
296-20-380	AMD	94-03-073	296-24-20511	AMD-P	94-10-010	296-24-82513	AMD-P	94-10-010
296-20-385	NEW	94-03-073	296-24-20525	AMD-P	94-10-010	296-24-82515	AMD-P	94-10-010
296-20-680	AMD	94-03-073	296-24-21515	AMD-P	94-10-010	296-24-82519	AMD-P	94-10-010
296-21-015	REP-P	94-07-126	296-24-21705	AMD-P	94-10-010	296-24-82521	AMD-P	94-10-010
296-21-015	REP	94-14-044	296-24-21711	AMD-P	94-10-010	296-24-82529	AMD-P	94-10-010
296-21-025	REP-P	94-07-126	296-24-233	AMD-P	94-10-010	296-24-82537	AMD-P	94-10-010
296-21-025	REP	94-14-044	296-24-23503	AMD-P	94-10-010	296-24-82543	AMD-P	94-10-010
296-21-026	REP-P	94-07-126	296-24-23505	AMD-P	94-10-010	296-24-84001	AMD-P	94-10-010
296-21-026	REP	94-14-044	296-24-23507	AMD-P	94-10-010	296-24-84005	AMD-P	94-10-010
296-21-027	REP-P	94-07-126	296-24-23523	AMD-P	94-10-010	296-24-84007	AMD-P	94-10-010
296-21-027	REP	94-14-044	296-24-23527	AMD-P	94-10-010	296-24-84009	AMD-P	94-10-010
296-21-030	REP-P	94-07-126	296-24-23529	AMD-P	94-10-010	296-24-85505	AMD-P	94-10-010
296-21-030	REP	94-14-044	296-24-24005	AMD-P	94-10-010	296-24-87001	AMD-P	94-10-010
296-21-085	REP-P	94-07-126	296-24-24009	AMD-P	94-10-010	296-24-87013	AMD-P	94-10-010
296-21-085	REP	94-14-044	296-24-24015	AMD-P	94-10-010	296-24-87015	AMD-P	94-10-010
296-21-240	REP-P	94-07-126	296-24-24503	AMD-P	94-10-010	296-24-87031	AMD-P	94-10-010
296-21-240	REP	94-14-044	296-24-24517	AMD-P	94-10-010	296-24-88501	AMD-P	94-10-010
296-21-250	REP-P	94-07-126	296-24-260	AMD-P	94-10-010	296-24-88505	AMD-P	94-10-010
296-21-250	REP	94-14-044	296-24-29401	AMD-P	94-10-010	296-24-90001	AMD-P	94-10-010
296-21-260	REP-P	94-07-126	296-24-29501	AMD-P	94-10-010	296-24-90005	AMD-P	94-10-010
296-21-260	REP	94-14-044	296-24-31501	AMD-P	94-10-010	296-24-90009	AMD-P	94-10-010
296-21-270	REP-P	94-07-126	296-24-32001	AMD-P	94-10-010	296-24-92003	AMD-P	94-10-010
296-21-280	REP-P	94-07-126	296-24-33003	AMD	94-06-068	296-24-93503	AMD-P	94-10-010
296-21-290	REP-P	94-07-126	296-24-33005	AMD-P	94-10-010	296-24-94001	AMD-P	94-10-010
296-21-300	REP-P	94-07-126	296-24-33009	AMD-P	94-10-010	296-24-95601	AMD-P	94-10-010
296-21-300	REP	94-14-044	296-24-33011	AMD-P	94-10-010	296-24-95605	AMD-P	94-10-010
296-21-310	REP-P	94-07-126	296-24-33013	AMD-P	94-10-010	296-24-95609	AMD-P	94-10-010
296-21-310	REP	94-14-044	296-24-47507	AMD-P	94-10-010	296-24-95613	AMD-P	94-10-010
296-21-320	REP-P	94-07-126	296-24-47515	AMD-P	94-10-010	296-24-960	AMD-P	94-10-010
296-21-320	REP	94-14-044	296-24-51005	AMD-P	94-10-010	296-24-975	AMD-P	94-10-010
296-23-135	AMD-P	94-07-126	296-24-51099	AMD-P	94-10-010	296-27-050	AMD-P	94-10-010
296-23-135	AMD	94-14-044	296-24-55001	AMD-P	94-10-010	296-27-060	AMD-P	94-10-010
296-23-150	REP-P	94-07-126	296-24-56515	AMD-P	94-10-010	296-27-070	AMD-P	94-10-010
296-23-150	REP	94-14-044	296-24-58501	AMD-P	94-10-010	296-27-078	AMD-P	94-10-010
296-23-155	AMD-P	94-07-126	296-24-58503	AMD	94-06-068	296-27-080	AMD-P	94-10-010
296-23-155	AMD	94-14-044	296-24-58513	AMD-P	94-10-010	296-27-090	AMD-P	94-10-010
296-23-220	REP-P	94-07-126	296-24-58515	AMD-P	94-10-010	296-27-110	AMD-P	94-10-010
296-23-225	REP-P	94-07-126	296-24-58517	AMD-P	94-10-010	296-27-120	AMD-P	94-10-010

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-27-140	AMD-P	94-10-010	296-62-40025	AMD-P	94-10-010	296-155-691	AMD-P	94-10-010
296-27-15501	AMD-P	94-10-010	296-104-281	NEW-E	94-04-006	296-155-699	AMD-P	94-10-010
296-27-15503	AMD-P	94-10-010	296-104-281	NEW-E	94-05-072	296-155-700	AMD-P	94-10-010
296-27-15505	AMD-P	94-10-010	296-116-185	RESCIND	94-05-005	296-155-715	AMD-P	94-10-010
296-27-16020	AMD-P	94-10-010	296-116-185	AMD	94-05-006	296-155-730	AMD-P	94-10-010
296-32-210	AMD-P	94-10-010	296-116-300	AMD-P	94-08-056	296-155-745	AMD-P	94-10-010
296-32-220	AMD-P	94-10-010	296-116-300	AMD	94-12-044	296-155-74501	AMD-P	94-10-010
296-32-230	AMD-P	94-10-010	296-116-500	NEW-P	94-04-119	296-155-775	AMD-P	94-10-010
296-32-270	AMD-P	94-10-010	296-116-500	NEW	94-07-079	296-155-785	AMD-P	94-10-010
296-32-280	AMD-P	94-10-010	296-155-001	AMD-P	94-10-010	296-155-800	AMD-P	94-10-010
296-32-290	AMD-P	94-10-010	296-155-006	AMD-P	94-10-010	296-155-955	AMD-P	94-10-010
296-32-300	AMD-P	94-10-010	296-155-010	AMD-P	94-10-010	296-305-025	AMD-P	94-11-124
296-32-320	AMD-P	94-10-010	296-155-012	AMD-P	94-10-010	296-306-003	AMD-W	94-10-007
296-32-360	AMD-P	94-10-010	296-155-015	AMD-P	94-10-010	296-306-010	AMD	94-06-068
296-37-510	AMD-P	94-10-010	296-155-040	AMD-P	94-10-010	296-306-012	AMD	94-06-068
296-37-512	AMD-P	94-10-010	296-155-100	AMD-P	94-10-010	296-306-015	AMD	94-06-068
296-37-575	AMD-P	94-10-010	296-155-110	AMD-P	94-10-010	296-306-020	AMD	94-06-068
296-45-65009	AMD-P	94-11-124	296-155-120	AMD-P	94-10-010	296-306-025	REP-W	94-10-007
296-54-507	AMD-P	94-11-124	296-155-125	AMD-P	94-10-010	296-306-030	AMD-W	94-10-007
296-59-005	AMD-P	94-11-124	296-155-140	AMD-P	94-10-010	296-306-045	REP-W	94-10-007
296-62-020	AMD-P	94-10-010	296-155-150	AMD-P	94-10-010	296-306-050	REP-W	94-10-007
296-62-05403	AMD-P	94-11-124	296-155-160	AMD-P	94-10-010	296-306-055	REP-W	94-10-007
296-62-05405	AMD-P	94-11-124	296-155-174	AMD-P	94-10-010	296-306-057	AMD	94-06-068
296-62-05407	AMD-P	94-11-124	296-155-180	AMD-P	94-11-124	296-306-060	AMD-W	94-10-007
296-62-05409	AMD-P	94-11-124	296-155-200	AMD-P	94-10-010	296-306-061	AMD-E	94-06-044
296-62-05411	AMD-P	94-11-124	296-155-203	AMD-P	94-10-010	296-306-061	REP-W	94-10-007
296-62-05413	AMD-P	94-11-124	296-155-20301	AMD-P	94-10-010	296-306-061	AMD-P	94-12-095
296-62-05415	AMD-P	94-11-124	296-155-20307	AMD-P	94-10-010	296-306-061	AMD-E	94-14-027
296-62-05417	AMD-P	94-11-124	296-155-212	AMD-P	94-10-010	296-306-06101	NEW-P	94-12-095
296-62-05419	AMD-P	94-11-124	296-155-215	AMD-P	94-10-010	296-306-06103	NEW-P	94-12-095
296-62-05421	AMD-P	94-11-124	296-155-235	AMD-P	94-10-010	296-306-06105	NEW-P	94-12-095
296-62-05423	AMD-P	94-11-124	296-155-24510	AMD-P	94-10-010	296-306-06107	NEW-P	94-12-095
296-62-05425	AMD-P	94-11-124	296-155-260	AMD-P	94-10-010	296-306-06109	NEW-P	94-12-095
296-62-05427	AMD-P	94-11-124	296-155-280	AMD-P	94-10-010	296-306-065	REP-W	94-10-007
296-62-05429	NEW-P	94-11-124	296-155-315	AMD-P	94-10-010	296-306-070	REP-W	94-10-007
296-62-07105	AMD-P	94-10-010	296-155-325	AMD-P	94-10-010	296-306-075	REP-W	94-10-007
296-62-07302	AMD-P	94-10-010	296-155-330	AMD-P	94-10-010	296-306-075	AMD-P	94-12-095
296-62-07329	AMD-P	94-10-010	296-155-34920	AMD-P	94-10-010	296-306-07501	NEW-P	94-12-095
296-62-07337	AMD-P	94-10-010	296-155-360	AMD-P	94-10-010	296-306-07503	NEW-P	94-12-095
296-62-07343	AMD-P	94-10-010	296-155-36305	AMD-P	94-10-010	296-306-080	REP-W	94-10-007
296-62-07347	AMD-P	94-10-010	296-155-36319	AMD-P	94-10-010	296-306-080	AMD-P	94-12-095
296-62-07441	AMD-P	94-10-010	296-155-36321	AMD-P	94-10-010	296-306-084	REP-W	94-10-007
296-62-07533	AMD-P	94-10-010	296-155-365	AMD-P	94-10-010	296-306-085	REP-W	94-10-007
296-62-07540	AMD-P	94-10-010	296-155-375	AMD-P	94-10-010	296-306-090	REP-W	94-10-007
296-62-07542	AMD-P	94-10-010	296-155-380	NEW-P	94-10-010	296-306-095	REP-W	94-10-007
296-62-07706	AMD-P	94-11-124	296-155-400	AMD-P	94-10-010	296-306-100	REP-W	94-10-007
296-62-07717	AMD-P	94-10-010	296-155-405	AMD-P	94-10-010	296-306-110	AMD	94-06-068
296-62-07749	AMD-P	94-10-010	296-155-428	AMD-P	94-10-010	296-306-115	AMD	94-06-068
296-62-07751	AMD-P	94-10-010	296-155-429	AMD-P	94-10-010	296-306-120	AMD	94-06-068
296-62-12000	NEW	94-07-086	296-155-462	AMD-P	94-10-010	296-306-125	REP-W	94-10-007
296-62-12000	REVIEW	94-14-103	296-155-480	AMD-P	94-10-010	296-306-130	REP-W	94-10-007
296-62-12001	NEW-W	94-07-085	296-155-485	AMD-P	94-10-010	296-306-135	REP-W	94-10-007
296-62-12003	NEW	94-07-086	296-155-48523	AMD-P	94-10-010	296-306-140	REP-W	94-10-007
296-62-12003	REVIEW	94-14-103	296-155-48531	AMD-P	94-10-010	296-306-145	AMD-E	94-06-044
296-62-12005	NEW	94-07-086	296-155-48533	AMD-P	94-10-010	296-306-145	REP-W	94-10-007
296-62-12005	REVIEW	94-14-103	296-155-505	AMD-P	94-10-010	296-306-145	AMD-P	94-12-095
296-62-12007	NEW	94-07-086	296-155-50505	AMD-P	94-10-010	296-306-145	AMD-E	94-14-027
296-62-12007	REVIEW	94-14-103	296-155-530	AMD-P	94-10-010	296-306-14501	NEW-E	94-06-044
296-62-12009	NEW	94-07-086	296-155-545	AMD-P	94-10-010	296-306-14501	NEW-P	94-12-095
296-62-12009	REVIEW	94-14-103	296-155-565	AMD-P	94-10-010	296-306-14501	NEW-E	94-14-027
296-62-12011	NEW-W	94-07-085	296-155-575	AMD-P	94-10-010	296-306-14503	NEW-E	94-06-044
296-62-12013	NEW-W	94-07-085	296-155-615	AMD-P	94-10-010	296-306-14503	NEW-P	94-12-095
296-62-12015	NEW-W	94-07-085	296-155-61705	AMD-P	94-10-010	296-306-14503	NEW-E	94-14-027
296-62-12017	NEW-W	94-07-085	296-155-61711	AMD-P	94-10-010	296-306-14505	NEW-E	94-06-044
296-62-12019	NEW-W	94-07-085	296-155-61713	AMD-P	94-10-010	296-306-14505	NEW-P	94-12-095
296-62-12021	NEW-W	94-07-085	296-155-620	AMD-P	94-10-010	296-306-14505	NEW-E	94-14-027
296-62-12023	NEW-W	94-07-085	296-155-625	AMD-P	94-10-010	296-306-14507	NEW-E	94-06-044
296-62-300	AMD-P	94-10-010	296-155-630	AMD-P	94-10-010	296-306-14507	NEW-P	94-12-095
296-62-3020	AMD-P	94-11-124	296-155-650	AMD-P	94-10-010	296-306-14507	NEW-E	94-14-027
296-62-3060	AMD-P	94-10-010	296-155-675	AMD-P	94-10-010	296-306-14509	NEW-E	94-06-044
296-62-3120	AMD-P	94-10-010	296-155-680	AMD-P	94-10-010	296-306-14509	NEW-P	94-12-095
296-62-3140	AMD-P	94-11-124	296-155-682	AMD-P	94-10-010	296-306-14509	NEW-E	94-14-027
296-62-40015	AMD-P	94-10-010	296-155-684	AMD-P	94-10-010	296-306-14511	NEW-E	94-06-044

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
296-306-14511	NEW-P	94-12-095	308-72-543	NEW	94-11-055	314-16-050	AMD	94-08-031
296-306-14511	NEW-E	94-14-027	308-72-660	AMD-P	94-02-076	314-16-111	NEW-P	94-10-067
296-306-14513	NEW-P	94-12-095	308-72-660	AMD	94-11-055	314-16-111	NEW	94-13-128
296-306-14515	NEW-P	94-12-095	308-72-665	NEW-P	94-02-076	314-16-150	AMD-P	94-05-093
296-306-160	AMD	94-06-068	308-72-665	NEW	94-11-055	314-16-150	AMD	94-08-030
296-306-165	AMD-E	94-06-044	308-72-690	AMD-P	94-02-076	314-16-199	NEW-P	94-10-004
296-306-165	AMD-W	94-10-007	308-72-690	AMD	94-11-055	314-16-199	NEW	94-13-127
296-306-165	AMD-P	94-12-095	308-77-010	AMD-P	94-02-075	314-24-230	AMD-P	94-07-124
296-306-165	AMD-E	94-14-027	308-77-010	AMD	94-11-029	314-24-230	AMD	94-10-034
296-306-170	AMD-E	94-06-044	308-77-060	AMD-P	94-02-075	314-25-010	NEW-P	94-05-095
296-306-170	AMD-P	94-12-095	308-77-060	AMD	94-11-029	314-25-010	NEW	94-08-032
296-306-170	AMD-E	94-14-027	308-77-095	AMD-P	94-02-075	314-25-020	NEW-P	94-05-095
296-306-175	AMD-E	94-06-044	308-77-095	AMD	94-11-029	314-25-020	NEW	94-08-032
296-306-175	AMD-W	94-10-007	308-77-155	NEW-P	94-02-075	314-25-030	NEW-P	94-05-095
296-306-175	AMD-P	94-12-095	308-77-155	NEW	94-11-029	314-25-030	NEW	94-08-032
296-306-175	AMD-E	94-14-027	308-77-250	AMD-P	94-02-075	314-25-040	NEW-P	94-05-095
296-306-180	AMD-E	94-06-044	308-77-250	AMD	94-11-029	314-25-040	NEW	94-08-032
296-306-180	AMD-P	94-12-095	308-91-030	AMD	94-13-012	314-25-050	NEW-P	94-10-003
296-306-180	AMD-E	94-14-027	308-91-040	AMD	94-13-012	314-25-050	NEW	94-13-126
296-306-200	AMD	94-06-068	308-91-050	AMD	94-13-012	314-44-015	NEW-P	94-11-087
296-306-25007	AMD	94-06-068	308-91-060	AMD	94-13-012	314-44-015	NEW	94-14-023
296-306-260	AMD	94-06-068	308-91-070	REP	94-13-012	314-52-115	AMD	94-06-022
296-306-265	AMD	94-06-068	308-91-090	AMD	94-13-012	314-60-010	AMD	94-03-060
296-306-300	AMD-W	94-10-007	308-91-150	AMD	94-13-012	314-60-020	AMD	94-03-060
296-306-400	AMD	94-06-068	308-93-073	AMD-W	94-03-018	314-60-030	AMD	94-03-060
296-350-010	AMD-P	94-10-010	308-93-280	AMD-W	94-03-018	314-60-080	AMD	94-03-060
296-350-030	AMD-P	94-10-010	308-93-330	AMD-W	94-03-018	314-60-105	AMD	94-03-060
296-350-040	AMD-P	94-10-010	308-93-630	REP-W	94-03-018	314-60-110	AMD	94-03-060
296-350-050	AMD-P	94-10-010	308-96A-005	AMD-P	94-13-123	314-64-060	REP-P	94-11-085
296-350-070	AMD-P	94-10-010	308-96A-027	NEW-P	94-13-028	314-64-060	REP	94-14-021
296-350-200	AMD-P	94-10-010	308-96A-175	AMD-P	94-13-123	314-64-080	AMD-P	94-11-086
296-350-210	AMD-P	94-10-010	308-97-010	REP-P	94-13-028	314-64-080	AMD	94-14-022
296-350-230	AMD-P	94-10-010	308-97-060	REP-P	94-13-028	315-02-120	REP	94-03-020
296-350-240	AMD-P	94-10-010	308-97-090	REP-P	94-13-028	315-04-180	AMD	94-03-020
296-350-250	AMD-P	94-10-010	308-97-125	REP-P	94-13-028	315-04-180	AMD-P	94-07-116
296-350-255	AMD-P	94-10-010	308-97-175	REP-P	94-13-028	315-04-180	AMD	94-11-027
296-350-260	AMD-P	94-10-010	308-97-205	REP-P	94-13-028	314-04-200	PREP	94-14-058
296-350-280	AMD-P	94-10-010	308-97-230	REP-P	94-13-028	315-04-210	AMD	94-03-020
296-350-350	AMD-P	94-10-010	308-125-075	NEW-P	94-12-041	315-04-210	AMD-P	94-07-116
296-350-35010	AMD-P	94-10-010	308-128A-020	AMD	94-04-050	315-04-210	AMD	94-11-027
296-350-35055	AMD-P	94-10-010	308-128A-030	AMD	94-04-050	315-06-035	AMD	94-03-020
296-350-400	AMD-P	94-10-010	308-128A-040	AMD	94-04-050	315-06-120	AMD-P	94-12-082
296-350-450	AMD-P	94-10-010	308-128C-040	AMD	94-04-050	315-06-130	AMD-P	94-12-082
296-350-460	AMD-P	94-10-010	308-128C-050	AMD	94-04-050	315-06-140	REP	94-03-020
296-350-470	AMD-P	94-10-010	308-128D-010	AMD	94-04-050	315-06-150	REP	94-03-020
296-350-500	AMD-P	94-10-010	308-128D-030	AMD	94-04-050	315-06-160	REP	94-03-020
296-360-005	AMD-P	94-10-010	308-128D-040	AMD	94-04-050	315-06-170	AMD	94-03-020
296-360-040	AMD-P	94-10-010	308-128D-070	AMD	94-04-050	315-06-180	REP	94-03-020
296-360-050	AMD-P	94-10-010	308-128E-011	AMD	94-04-050	315-06-190	AMD	94-03-020
296-360-080	AMD-P	94-10-010	308-128F-020	AMD	94-04-050	315-10-030	AMD	94-03-020
296-360-090	AMD-P	94-10-010	308-330-157	AMD-P	94-14-041	315-10-060	AMD	94-03-020
296-360-140	AMD-P	94-10-010	308-330-197	AMD-P	94-14-041	315-10-080	AMD	94-03-020
304-12-030	AMD	94-11-023	308-330-300	AMD-E	94-14-040	315-11A-114	NEW	94-03-019
308-13-150	AMD	94-04-044	308-330-300	AMD-P	94-14-041	315-11A-115	NEW	94-03-019
308-13-160	AMD	94-04-044	308-330-307	AMD-E	94-14-040	315-11A-116	NEW	94-03-019
308-18-150	AMD-P	94-09-018	308-330-307	AMD-P	94-14-041	315-11A-117	NEW	94-03-019
308-18-150	AMD-W	94-11-026	308-330-320	AMD-E	94-14-040	315-11A-117	AMD-P	94-07-116
308-56A-160	AMD-P	94-13-123	308-330-320	AMD-P	94-14-041	315-11A-117	AMD	94-11-027
308-56A-322	NEW-W	94-08-057	308-330-400	AMD-E	94-14-040	315-11A-118	NEW-P	94-03-099
308-56A-323	NEW-W	94-08-057	308-330-400	AMD-P	94-14-041	315-11A-118	NEW	94-07-029
308-62-010	REP-P	94-04-017	308-330-418	NEW-W	94-09-002	315-11A-118	AMD-P	94-12-082
308-62-010	REP	94-08-025	308-330-425	AMD-E	94-14-040	315-11A-119	NEW-P	94-03-099
308-62-020	REP-P	94-04-017	308-330-425	AMD-P	94-14-041	315-11A-119	NEW	94-07-029
308-62-020	REP	94-08-025	314-10-070	NEW-W	94-08-010	315-11A-119	AMD-P	94-12-082
308-62-030	REP-P	94-04-017	314-10-070	NEW-W	94-08-023	315-11A-120	NEW-P	94-03-099
308-62-030	REP	94-08-025	314-12-142	NEW-W	94-06-021	315-11A-120	NEW	94-07-029
308-65-040	AMD-P	94-07-037	314-12-185	NEW-P	94-05-094	315-11A-120	AMD-P	94-12-082
308-65-040	AMD	94-12-052	314-12-185	NEW-W	94-08-029	315-11A-121	NEW-P	94-03-099
308-65-070	AMD-P	94-07-037	314-12-190	NEW-P	94-10-066	315-11A-121	NEW	94-07-029
308-65-070	AMD	94-12-052	314-12-190	NEW-W	94-13-125	315-11A-122	NEW-P	94-07-116
308-65-160	AMD-P	94-07-037	314-16-010	REP-P	94-07-125	315-11A-122	NEW	94-11-027
308-65-160	AMD	94-12-052	314-16-010	REP	94-10-035	315-11A-122	PREP	94-14-058
308-72-543	NEW-P	94-02-076	314-16-050	AMD-P	94-05-096	315-11A-123	NEW-P	94-07-116

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
315-11A-123	NEW	94-11-027	332-18-050	AMD	94-14-051	352-32-250	AMD-P	94-10-048
315-11A-124	NEW-P	94-07-116	332-18-05001	NEW-P	94-09-062	352-32-250	AMD	94-13-080
315-11A-124	NEW	94-11-027	332-18-05001	NEW	94-14-051	352-32-25001	AMD	94-04-075
315-11A-125	NEW-P	94-07-116	332-18-05002	NEW-P	94-09-062	352-32-252	AMD-P	94-03-097
315-11A-125	NEW	94-11-027	332-18-05002	NEW	94-14-051	352-32-252	AMD-C	94-06-010
315-11A-126	NEW-P	94-07-116	332-18-05003	NEW-P	94-09-062	352-32-252	AMD	94-08-036
315-11A-126	NEW	94-11-027	332-18-05003	NEW	94-14-051	352-32-255	AMD-P	94-03-097
315-11A-127	NEW-P	94-12-082	332-18-05004	NEW-P	94-09-062	352-32-255	AMD-C	94-06-010
315-11A-128	NEW-P	94-12-082	332-18-05004	NEW	94-14-051	352-32-255	AMD	94-08-036
315-11A-129	NEW-P	94-12-082	332-18-05005	NEW-P	94-09-062	352-32-320	NEW-P	94-03-097
315-11A-130	NEW-P	94-12-082	332-18-05005	NEW	94-14-051	352-32-320	NEW-C	94-06-010
315-30-030	AMD	94-03-020	332-18-05006	NEW-P	94-09-062	352-32-320	NEW	94-08-036
315-34-040	AMD-P	94-03-099	332-18-05006	NEW	94-14-051	352-60	AMD-P	94-12-065
315-34-040	AMD	94-07-029	332-18-05007	NEW-P	94-09-062	352-60-010	AMD-P	94-12-065
317-20	PREP	94-12-025	332-18-05007	NEW	94-14-051	352-60-020	AMD-P	94-12-065
317-40-010	NEW-P	94-12-093	332-18-05008	NEW-P	94-09-062	352-60-030	AMD-P	94-12-065
317-40-020	NEW-P	94-12-093	332-18-05008	NEW	94-14-051	352-60-040	AMD-P	94-12-065
317-40-030	NEW-P	94-12-093	332-18-05009	NEW-P	94-09-062	352-60-050	AMD-P	94-12-065
317-40-040	NEW-P	94-12-093	332-18-05009	NEW	94-14-051	352-60-060	AMD-P	94-12-065
317-40-050	NEW-P	94-12-093	332-18-060	REP-P	94-09-062	352-60-065	NEW-P	94-12-065
317-40-060	NEW-P	94-12-093	332-18-060	REP	94-14-051	352-60-066	NEW-P	94-12-065
317-40-065	NEW-P	94-12-093	332-18-070	REP-P	94-09-062	352-60-070	AMD-P	94-12-065
317-40-070	NEW-P	94-12-093	332-18-070	REP	94-14-051	352-60-080	AMD-P	94-12-065
317-40-080	NEW-P	94-12-093	332-18-080	REP-P	94-09-062	352-60-090	AMD-P	94-12-065
317-40-085	NEW-P	94-12-093	332-18-080	REP	94-14-051	352-60-120	NEW-P	94-12-065
317-40-090	NEW-P	94-12-093	332-18-090	REP-P	94-09-062	352-60-130	NEW-P	94-12-065
317-40-100	NEW-P	94-12-093	332-18-090	REP	94-14-051	352-65-010	AMD	94-04-076
317-40-110	NEW-P	94-12-093	332-18-100	REP-P	94-09-062	352-65-020	AMD	94-04-076
317-40-120	NEW-P	94-12-093	332-18-100	REP	94-14-051	352-65-030	AMD	94-04-076
317-40-130	NEW-P	94-12-093	332-18-110	REP-P	94-09-062	352-65-040	AMD	94-04-076
317-40-140	NEW-P	94-12-093	332-18-110	REP	94-14-051	352-65-060	AMD	94-04-076
317-40-150	NEW-P	94-12-093	332-18-120	AMD-P	94-09-062	352-74-040	AMD-P	94-03-089
317-40-900	NEW-P	94-12-093	332-18-120	AMD	94-14-051	352-74-040	AMD-C	94-06-020
317-40-910	NEW-P	94-12-093	332-18-130	AMD-P	94-09-062	352-74-040	AMD	94-08-005
326-02-030	AMD-P	94-08-107	332-18-130	AMD	94-14-051	352-76-010	NEW-P	94-10-070
326-02-030	AMD	94-11-116	332-18-140	NEW-P	94-09-062	352-76-010	NEW	94-13-082
326-02-034	NEW	94-11-113	332-18-140	NEW	94-14-051	352-76-020	NEW-P	94-10-070
326-02-050	AMD-P	94-08-107	332-18-150	NEW-P	94-09-062	352-76-020	NEW	94-13-082
326-02-050	AMD	94-11-117	332-18-150	NEW	94-14-051	352-76-030	NEW-P	94-10-070
326-20-120	AMD-P	94-08-108	332-24-221	AMD-P	94-08-093	352-76-030	NEW	94-13-082
326-20-120	AMD	94-11-114	332-24-221	AMD	94-14-063	352-76-040	NEW-P	94-10-070
326-20-125	AMD-P	94-08-108	332-26-040	NEW-E	94-13-095	352-76-040	NEW	94-13-082
326-20-125	AMD	94-11-115	332-26-050	NEW-E	94-13-095	352-76-050	NEW-P	94-10-070
326-30-041	AMD	94-03-068	332-26-060	NEW-E	94-13-095	352-76-050	NEW	94-13-082
326-30-051	AMD	94-07-064	332-26-080	NEW-E	94-09-020	352-76-060	NEW-P	94-10-070
326-40-030	AMD-P	94-08-109	332-30-166	AMD-E	94-13-056	352-76-060	NEW	94-13-082
326-40-030	AMD	94-11-118	332-30-166	PREP	94-14-009	352-76-076	NEW-P	94-10-070
326-40-040	AMD-S	94-08-110	332-120-010	AMD	94-06-034	352-76-070	NEW	94-13-082
326-40-040	AMD	94-11-119	332-120-020	AMD	94-06-034	352-76-080	NEW-P	94-10-070
326-40-060	AMD	94-07-064	332-120-030	AMD	94-06-034	352-76-080	NEW	94-13-082
332-18	AMD-P	94-09-062	332-120-040	AMD	94-06-034	356-05-477	NEW	94-04-011
332-18	AMD	94-14-051	332-120-050	AMD	94-06-034	356-05-479	NEW	94-04-011
332-18-010	AMD-P	94-09-062	332-120-060	NEW	94-06-034	356-06-045	NEW	94-04-011
332-18-010	AMD	94-14-051	332-120-070	NEW	94-06-034	356-09	NEW-C	94-04-086
332-18-01001	NEW-P	94-09-062	352-28	AMD-P	94-06-049	356-09-010	REP-W	94-04-010
332-18-01001	NEW	94-14-051	352-28	AMD	94-10-012	356-09-020	REP-W	94-04-010
332-18-01002	NEW-P	94-09-062	352-28-005	AMD-P	94-06-049	356-09-030	REP-W	94-04-010
332-18-01002	NEW	94-14-051	352-28-005	AMD	94-10-012	356-09-040	REP-W	94-04-010
332-18-01003	NEW-P	94-09-062	352-28-010	AMD-P	94-06-049	356-09-050	REP-W	94-04-010
332-18-01003	NEW	94-14-051	352-28-010	AMD	94-10-012	356-10-020	AMD-P	94-12-060
332-18-01004	NEW-P	94-09-062	352-32-010	AMD-P	94-03-097	356-10-040	AMD-P	94-12-060
332-18-01004	NEW	94-14-051	352-32-010	AMD-C	94-06-010	356-10-045	AMD-P	94-12-060
332-18-01005	NEW-P	94-09-062	352-32-010	AMD	94-08-036	356-10-050	AMD-P	94-12-060
332-18-01005	NEW	94-14-051	352-32-045	AMD-P	94-03-097	356-26-030	AMD-E	94-04-085
332-18-015	REP-P	94-09-062	352-32-045	AMD-C	94-06-010	356-26-030	AMD-P	94-06-066
332-18-015	REP	94-14-051	352-32-045	AMD	94-08-036	356-26-030	AMD	94-10-008
332-18-020	REP-P	94-09-062	352-32-195	AMD-P	94-12-064	356-26-070	AMD-E	94-04-085
332-18-020	REP	94-14-051	352-32-210	AMD-P	94-10-069	356-26-070	AMD-P	94-06-066
332-18-030	REP-P	94-09-062	352-32-210	AMD	94-13-081	356-26-070	AMD	94-10-008
332-18-030	REP	94-14-051	352-32-250	AMD-P	94-03-097	356-30-285	NEW	94-04-011
332-18-040	REP-P	94-09-062	352-32-250	AMD-C	94-06-010	356-30-315	NEW	94-04-011
332-18-040	REP	94-14-051	352-32-250	AMD	94-08-036	356-30-328	NEW-W	94-04-009
332-18-050	AMD-P	94-09-062	352-32-250	AMD-E	94-09-009	356-30-331	REP-P	94-12-056

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #
356-37-080	AMD-P	94-04-084	371-08-010	AMD	94-12-027
356-37-080	AMD	94-08-024	371-08-061	NEW-E	94-07-061
356-37-090	AMD-P	94-04-084	371-08-061	NEW-P	94-07-098
356-37-090	AMD	94-08-024	371-08-061	NEW	94-12-027
356-56-015	AMD-E	94-03-069	371-08-147	AMD-E	94-07-061
356-56-015	AMD-P	94-06-064	371-08-147	AMD-P	94-07-098
356-56-015	AMD	94-09-012	371-08-147	AMD	94-12-027
356-56-015	AMD-P	94-09-065	371-08-162	AMD-E	94-07-061
356-56-015	AMD	94-12-055	371-08-162	AMD-P	94-07-098
356-56-021	AMD-P	94-09-065	371-08-162	AMD	94-12-027
356-56-021	AMD	94-12-055	371-08-165	AMD-E	94-07-061
356-56-030	AMD-P	94-06-064	371-08-165	AMD-P	94-07-098
356-56-030	AMD	94-09-012	371-08-165	AMD	94-12-027
356-56-035	AMD-P	94-09-065	371-08-167	NEW-E	94-07-061
356-56-035	AMD	94-12-055	371-08-167	NEW-P	94-07-098
356-56-050	AMD-P	94-09-065	371-08-167	NEW	94-12-027
356-56-050	AMD	94-12-055	371-08-197	NEW-E	94-07-061
356-56-050	AMD-E	94-14-072	371-08-197	NEW-P	94-07-098
356-56-105	AMD-P	94-09-065	371-08-197	NEW	94-12-027
356-56-105	AMD	94-12-055	388-11-065	AMD-P	94-07-081
356-56-110	NEW-W	94-11-071	388-11-065	AMD	94-10-033
356-56-115	AMD-P	94-06-064	388-11-067	NEW-P	94-07-081
356-56-115	AMD	94-09-012	388-11-067	NEW	94-10-033
356-56-115	AMD-P	94-09-065	388-11-205	AMD-P	94-07-041
356-56-115	AMD	94-12-055	388-11-205	AMD-E	94-07-042
356-56-120	AMD-P	94-09-065	388-11-205	AMD	94-10-064
356-56-120	AMD	94-12-055	388-14-205	AMD-P	94-11-112
356-56-205	AMD-P	94-09-065	388-14-300	AMD-P	94-11-112
356-56-205	AMD	94-12-055	388-14-310	AMD-P	94-11-112
356-56-210	AMD-P	94-09-065	388-14-385	AMD-P	94-11-110
356-56-210	AMD	94-12-055	388-14-390	AMD-P	94-11-112
356-56-220	AMD-P	94-09-065	388-15-214	AMD-P	94-07-082
356-56-220	AMD	94-12-055	388-15-214	AMD	94-10-025
356-56-230	AMD-E	94-03-069	388-20-010	REP-P	94-07-114
356-56-230	AMD-P	94-06-064	388-20-010	REP	94-10-065
356-56-230	AMD	94-09-012	388-22-030	AMD-P	94-04-042
356-56-240	NEW-P	94-11-071	388-22-030	AMD	94-08-022
356-56-250	NEW-P	94-11-071	388-24	AMD-P	94-12-008
356-56-275	NEW-P	94-11-071	388-24	AMD-E	94-12-009
356-56-300	NEW-P	94-11-071	388-24-040	REP-P	94-07-114
356-56-550	AMD-P	94-09-065	388-24-040	REP	94-10-065
356-56-550	AMD	94-12-055	388-24-042	REP-P	94-07-114
359-09-010	AMD	94-06-063	388-24-042	REP	94-10-065
359-09-012	AMD	94-06-063	388-24-044	AMD-P	94-05-017
359-09-015	AMD	94-06-063	388-24-044	REP-P	94-07-114
359-09-020	AMD	94-06-063	388-24-044	AMD	94-08-017
359-09-030	AMD	94-06-063	388-24-044	REP	94-10-065
359-09-040	AMD	94-06-063	388-24-050	REP-P	94-07-114
359-09-050	AMD	94-06-063	388-24-050	REP	94-10-065
359-09-070	NEW-W	94-13-090	388-24-052	REP-P	94-07-114
359-39	NEW-C	94-10-009	388-24-052	REP	94-10-065
359-39-010	NEW-P	94-06-065	388-24-055	REP-P	94-07-114
359-39-010	NEW	94-13-091	388-24-055	REP	94-10-065
359-39-020	NEW-P	94-06-065	388-24-060	REP-P	94-07-114
359-39-020	NEW	94-13-091	388-24-060	REP	94-10-065
359-39-030	NEW-P	94-06-065	388-24-060	REP-P	94-07-114
359-39-030	NEW	94-13-091	388-24-065	REP-P	94-07-114
359-39-040	NEW-P	94-06-065	388-24-065	REP	94-10-065
359-39-040	NEW	94-13-091	388-24-070	REP-P	94-07-114
359-39-050	NEW-P	94-06-065	388-24-070	REP	94-10-065
359-39-050	NEW	94-13-091	388-24-074	REP-P	94-07-114
359-39-090	NEW-P	94-06-065	388-24-074	REP	94-10-065
359-39-090	NEW	94-13-091	388-24-090	REP-P	94-07-114
359-39-140	NEW-P	94-06-065	388-24-090	REP	94-10-065
359-39-140	NEW	94-13-091	388-24-108	REP-P	94-07-114
365-140-030	AMD-P	94-13-022	388-24-108	REP	94-10-065
365-140-030	AMD-E	94-13-072	388-24-109	REP-P	94-07-114
365-140-045	NEW-P	94-13-022	388-24-109	REP	94-10-065
365-140-045	NEW-E	94-13-072	388-24-111	AMD	94-04-034
365-140-050	AMD-P	94-13-022	388-24-111	REP-P	94-07-114
365-140-050	AMD-E	94-13-072	388-24-111	REP	94-10-065
371-08-010	AMD-E	94-07-061	388-24-125	REP-P	94-07-114
371-08-010	AMD-P	94-07-098	388-24-125	REP	94-10-065
			388-24-200	REP-P	94-07-114
			388-24-200	REP	94-10-065
			388-24-207	REP-P	94-07-114
			388-24-207	REP	94-10-065
			388-24-2070	NEW-P	94-13-008
			388-24-2070	NEW-E	94-12-009
			388-24-210	REP-P	94-07-114
			388-24-210	REP	94-10-065
			388-24-2100	NEW-P	94-13-008
			388-24-2100	NEW-E	94-12-009
			388-24-215	REP-P	94-07-114
			388-24-215	REP	94-10-065
			388-24-2150	NEW-P	94-13-008
			388-24-2150	NEW-E	94-12-009
			388-24-220	REP-P	94-07-114
			388-24-220	REP	94-10-065
			388-24-2200	NEW-P	94-13-008
			388-24-2200	NEW-E	94-12-009
			388-24-225	REP-P	94-07-114
			388-24-225	REP	94-10-065
			388-24-2250	NEW-P	94-13-008
			388-24-2250	NEW-E	94-12-009
			388-24-235	REP-P	94-07-114
			388-24-235	REP	94-10-065
			388-24-2350	NEW-P	94-13-008
			388-24-2350	NEW-E	94-12-009
			388-24-243	REP-P	94-07-114
			388-24-243	REP	94-10-065
			388-24-2430	NEW-P	94-13-008
			388-24-2430	NEW-E	94-12-009
			388-24-250	REP-P	94-03-051
			388-24-250	REP	94-06-026
			388-24-252	REP-P	94-03-051
			388-24-252	REP	94-06-026
			388-24-253	REP-P	94-03-051
			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
			388-24-260	REP	94-06-026
			388-24-265	REP-P	94-03-051
			388-24-265	REP	94-06-026
			388-24-550	REP-P	94-07-114
			388-24-550	REP	94-10-065
			388-26-025	REP-P	94-07-114
			388-26-025	REP	94-10-065
			388-26-040	REP-P	94-07-114
			388-26-040	REP	94-10-065
			388-26-050	REP-P	94-07-114
			388-26-050	REP	94-10-065
			388-26-055	REP-P	94-07-114
			388-26-055	REP	94-10-065
			388-26-060	REP-P	94-07-114
			388-26-060	REP	94-10-065
			388-26-065	REP-P	94-07-114
			388-26-065	REP	94-10-065
			388-26-070	REP-P	94-07-114
			388-26-070	REP	94-10-065
			388-26-080	REP-P	94-07-114
			388-26-080	REP	94-10-065
			388-26-105	REP-P	94-07-114
			388-26-105	REP	94-10-065
			388-26-120	REP-P	94-07-114
			388-26-120	REP	94-10-065
			388-26-145	REP-P	94-07-114
			388-26-145	REP	94-10-065
			388-26-149	REP-P	94-07-114
			388-26-149	REP	94-10-065
			388-28-005	REP-P	94-07-114
			388-28-005	REP	94-10-065
			388-28-300	REP-P	94-07-114
			388-28-300	REP	94-10-065

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-28-350	REP-P	94-07-114	388-28-484	REP	94-10-065	388-29-230	REP-P	94-06-035
388-28-350	REP	94-10-065	388-28-485	REP-P	94-07-114	388-29-230	REP	94-09-001
388-28-355	REP-P	94-07-114	388-28-500	REP	94-10-065	388-29-270	REP-P	94-06-035
388-28-355	REP	94-10-065	388-28-500	REP-P	94-07-114	388-29-270	REP	94-09-001
388-28-360	REP-P	94-07-114	388-28-500	REP	94-10-065	388-29-280	REP-P	94-06-035
388-28-360	REP	94-10-065	388-28-515	REP-P	94-07-114	388-29-280	REP	94-09-001
388-28-365	REP-P	94-07-114	388-28-515	REP	94-10-065	388-29-295	AMD	94-04-035
388-28-365	REP	94-10-065	388-28-520	REP-P	94-07-114	388-29-295	REP-P	94-06-035
388-28-370	REP	94-04-043	388-28-520	REP	94-10-065	388-29-295	REP	94-09-001
388-28-370	REP-P	94-07-114	388-28-530	AMD-P	94-05-016	388-33-015	REP-P	94-07-114
388-28-370	REP	94-10-065	388-28-530	REP-P	94-07-114	388-33-015	REP	94-10-065
388-28-380	REP-P	94-07-114	388-28-530	AMD	94-08-016	388-33-020	REP-P	94-07-114
388-28-380	REP	94-10-065	388-28-530	REP	94-10-065	388-33-020	REP	94-10-065
388-28-385	REP-P	94-07-114	388-28-532	REP-P	94-07-114	388-33-025	REP-P	94-07-114
388-28-385	REP	94-10-065	388-28-532	REP	94-10-065	388-33-025	REP	94-10-065
388-28-390	AMD-P	94-05-069	388-28-535	REP-P	94-07-114	388-33-045	REP-P	94-07-114
388-28-390	REP-P	94-07-114	388-28-535	REP	94-10-065	388-33-045	REP	94-10-065
388-28-390	AMD	94-08-015	388-28-555	REP-P	94-07-114	388-33-050	REP-P	94-07-114
388-28-390	REP	94-10-065	388-28-555	REP	94-10-065	388-33-050	REP	94-10-065
388-28-392	REP-P	94-07-114	388-28-560	AMD-P	94-05-019	388-33-051	REP-P	94-07-114
388-28-392	REP	94-10-065	388-28-560	REP-P	94-07-114	388-33-051	REP	94-10-065
388-28-400	REP-P	94-07-114	388-28-560	AMD	94-08-019	388-33-055	REP-P	94-07-114
388-28-400	REP	94-10-065	388-28-560	REP	94-10-065	388-33-055	REP	94-10-065
388-28-410	REP-P	94-07-114	388-28-570	REP-P	94-07-114	388-33-080	REP-P	94-07-114
388-28-410	REP	94-10-065	388-28-570	REP	94-10-065	388-33-080	REP	94-10-065
388-28-415	REP-P	94-07-114	388-28-575	AMD-P	94-05-054	388-33-085	REP-P	94-07-114
388-28-415	REP	94-10-065	388-28-575	REP-P	94-07-114	388-33-085	REP	94-10-065
388-28-420	REP-P	94-07-114	388-28-575	AMD	94-08-021	388-33-090	REP-P	94-07-114
388-28-420	REP	94-10-065	388-28-575	REP	94-10-065	388-33-090	REP	94-10-065
388-28-425	REP-P	94-07-114	388-28-578	REP-P	94-07-114	388-33-095	REP-P	94-07-114
388-28-425	REP	94-10-065	388-28-578	REP	94-10-065	388-33-095	REP	94-10-065
388-28-435	REP-P	94-07-114	388-28-580	REP-P	94-07-114	388-33-115	REP-P	94-07-114
388-28-435	REP	94-10-065	388-28-580	REP	94-10-065	388-33-115	REP	94-10-065
388-28-438	REP-P	94-07-114	388-28-590	REP-P	94-07-114	388-33-120	REP-P	94-07-114
388-28-438	REP	94-10-065	388-28-590	REP	94-10-065	388-33-120	REP	94-10-065
388-28-439	AMD-P	94-03-055	388-28-600	AMD-P	94-04-042	388-33-125	REP-P	94-07-114
388-28-439	AMD	94-06-024	388-28-600	REP-P	94-07-114	388-33-125	REP	94-10-065
388-28-439	REP-P	94-07-114	388-28-600	AMD	94-08-022	388-33-135	REP-P	94-07-114
388-28-439	REP	94-10-065	388-28-600	REP	94-10-065	388-33-135	REP	94-10-065
388-28-440	REP-P	94-07-114	388-28-650	REP-P	94-07-114	388-33-140	REP-P	94-07-114
388-28-440	REP	94-10-065	388-28-650	REP	94-10-065	388-33-140	REP	94-10-065
388-28-450	REP-P	94-07-114	388-29-001	REP-P	94-06-035	388-33-165	REP-P	94-07-114
388-28-450	REP	94-10-065	388-29-001	REP	94-09-001	388-33-165	REP	94-10-065
388-28-457	REP	94-04-043	388-29-005	REP-P	94-06-035	388-33-170	REP-P	94-07-114
388-28-458	REP	94-04-043	388-29-005	REP	94-09-001	388-33-170	REP	94-10-065
388-28-459	REP	94-04-043	388-29-010	REP-P	94-06-035	388-33-190	REP-P	94-07-114
388-28-460	REP	94-04-043	388-29-010	REP	94-09-001	388-33-190	REP	94-10-065
388-28-461	REP	94-04-043	388-29-020	REP-P	94-06-035	388-33-195	REP-P	94-07-114
388-28-462	REP	94-04-043	388-29-020	REP	94-09-001	388-33-195	REP	94-10-065
388-28-463	REP	94-04-043	388-29-080	REP-P	94-06-035	388-33-230	REP-P	94-07-114
388-28-464	REP	94-04-043	388-29-080	REP	94-09-001	388-33-230	REP	94-10-065
388-28-465	REP	94-04-043	388-29-100	REP-P	94-06-035	388-33-235	REP-P	94-07-114
388-28-470	REP	94-04-043	388-29-100	REP	94-09-001	388-33-235	REP	94-10-065
388-28-471	REP	94-04-043	388-29-110	REP-P	94-06-035	388-33-240	REP-P	94-07-114
388-28-472	REP	94-04-043	388-29-110	REP	94-09-001	388-33-240	REP	94-10-065
388-28-473	REP	94-04-043	388-29-112	REP-P	94-06-035	388-33-335	REP-P	94-07-114
388-28-474	AMD-P	94-05-018	388-29-112	REP	94-09-001	388-33-335	REP	94-10-065
388-28-474	REP-P	94-07-114	388-29-125	REP-P	94-06-035	388-33-355	REP-P	94-07-114
388-28-474	AMD	94-08-018	388-29-125	REP	94-09-001	388-33-355	REP	94-10-065
388-28-474	REP	94-10-065	388-29-130	REP-P	94-06-035	388-33-365	REP-P	94-07-114
388-28-475	REP-P	94-07-114	388-29-130	REP	94-09-001	388-33-365	REP	94-10-065
388-28-475	REP	94-10-065	388-29-150	REP-P	94-06-035	388-33-375	REP-P	94-07-114
388-28-480	REP-P	94-07-114	388-29-150	REP	94-09-001	388-33-375	REP	94-10-065
388-28-480	REP	94-10-065	388-29-160	REP-P	94-06-035	388-33-376	REP-P	94-07-114
388-28-481	REP-P	94-07-114	388-29-160	REP	94-09-001	388-33-376	REP	94-10-065
388-28-481	REP	94-10-065	388-29-180	REP-P	94-06-035	388-33-377	REP-P	94-07-114
388-28-482	REP-P	94-07-114	388-29-180	REP	94-09-001	388-33-377	REP	94-10-065
388-28-482	REP	94-10-065	388-29-200	REP-P	94-06-035	388-33-382	REP-P	94-07-114
388-28-483	REP-P	94-07-114	388-29-200	REP	94-09-001	388-33-382	REP	94-10-065
388-28-483	REP	94-10-065	388-29-210	REP-P	94-06-035	388-33-385	REP-P	94-07-114
388-28-484	AMD-P	94-05-029	388-29-210	REP	94-09-001	388-33-385	REP	94-10-065
388-28-484	REP-P	94-07-114	388-29-220	REP-P	94-06-035	388-33-387	REP-P	94-07-114
388-28-484	AMD	94-08-020	388-29-220	REP	94-09-001	388-33-387	REP	94-10-065

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-33-389	REP-P	94-07-114	388-38-150	REP	94-10-065	388-49-550	AMD-P	94-12-083
388-33-389	REP	94-10-065	388-38-172	REP-P	94-07-114	388-49-590	AMD-P	94-03-050
388-33-400	REP-P	94-07-114	388-38-172	REP	94-10-065	388-49-590	AMD-C	94-06-027
388-33-400	REP	94-10-065	388-38-200	REP-P	94-07-114	388-49-590	AMD	94-07-080
388-33-420	REP-P	94-07-114	388-38-200	REP	94-10-065	388-49-670	AMD-P	94-13-024
388-33-420	REP	94-10-065	388-38-220	REP-P	94-07-114	388-53-010	REP	94-04-036
388-33-425	REP-P	94-07-114	388-38-220	REP	94-10-065	388-53-050	REP	94-04-036
388-33-425	REP	94-10-065	388-38-225	REP-P	94-07-114	388-59-010	REP	94-04-033
388-33-430	REP-P	94-07-114	388-38-225	REP	94-10-065	388-59-020	REP	94-04-033
388-33-430	REP	94-10-065	388-38-230	REP-P	94-07-114	388-59-030	REP	94-04-033
388-33-440	REP-P	94-07-114	388-38-230	REP	94-10-065	388-59-040	REP	94-04-033
388-33-440	REP	94-10-065	388-38-250	REP-P	94-07-114	388-59-045	REP	94-04-033
388-33-442	REP-P	94-07-114	388-38-250	REP	94-10-065	388-59-048	REP	94-04-033
388-33-442	REP	94-10-065	388-38-255	REP-P	94-07-114	388-59-050	REP	94-04-033
388-33-444	REP-P	94-07-114	388-38-255	REP	94-10-065	388-59-060	REP	94-04-033
388-33-444	REP	94-10-065	388-38-260	REP-P	94-07-114	388-59-070	REP	94-04-033
388-33-446	REP-P	94-07-114	388-38-260	REP	94-10-065	388-59-080	REP	94-04-033
388-33-446	REP	94-10-065	388-38-265	REP-P	94-07-114	388-59-090	REP	94-04-033
388-33-447	REP-P	94-07-114	388-38-265	REP	94-10-065	388-59-100	REP	94-04-033
388-33-447	REP	94-10-065	388-38-270	REP-P	94-07-114	388-80-002	REP-P	94-07-114
388-33-448	REP-P	94-07-114	388-38-270	REP	94-10-065	388-80-002	REP	94-10-065
388-33-448	REP	94-10-065	388-38-280	REP-P	94-07-114	388-80-005	REP-P	94-07-114
388-33-449	REP-P	94-07-114	388-38-280	REP	94-10-065	388-80-005	REP	94-10-065
388-33-449	REP	94-10-065	388-38-285	REP-P	94-07-114	388-81-005	REP-P	94-07-114
388-33-450	REP-P	94-07-114	388-38-285	REP	94-10-065	388-81-005	REP	94-10-065
388-33-450	REP	94-10-065	388-38-290	REP-P	94-07-114	388-81-010	REP-P	94-07-114
388-33-453	REP-P	94-07-114	388-38-290	REP	94-10-065	388-81-010	REP	94-10-065
388-33-453	REP	94-10-065	388-38-295	REP-P	94-07-114	388-81-015	REP-P	94-07-114
388-33-455	REP-P	94-07-114	388-38-295	REP	94-10-065	388-81-015	REP	94-10-065
388-33-455	REP	94-10-065	388-43-120	NEW-E	94-04-032	388-81-017	REP-P	94-07-114
388-33-457	REP-P	94-07-114	388-43-120	NEW	94-04-037	388-81-017	REP	94-10-065
388-33-457	REP	94-10-065	388-44-010	REP	94-05-045	388-81-020	REP-P	94-07-114
388-33-458	REP-P	94-07-114	388-44-020	REP	94-05-045	388-81-020	REP	94-10-065
388-33-458	REP	94-10-065	388-44-035	REP	94-05-045	388-81-025	REP-P	94-07-114
388-33-459	REP-P	94-07-114	388-44-046	REP	94-05-045	388-81-025	REP	94-10-065
388-33-459	REP	94-10-065	388-44-050	REP	94-05-045	388-81-030	REP-P	94-07-114
388-33-460	REP-P	94-07-114	388-44-110	REP	94-05-045	388-81-030	REP	94-10-065
388-33-460	REP	94-10-065	388-44-115	REP	94-05-045	388-81-035	REP-P	94-07-114
388-33-525	REP-P	94-07-114	388-44-120	REP	94-05-045	388-81-035	REP	94-10-065
388-33-525	REP	94-10-065	388-44-125	REP	94-05-045	388-81-038	REP-P	94-07-114
388-33-535	REP-P	94-07-114	388-44-127	REP	94-05-045	388-81-038	REP	94-10-065
388-33-535	REP	94-10-065	388-44-140	REP	94-05-045	388-81-040	REP-P	94-07-114
388-33-545	REP-P	94-07-114	388-44-145	REP	94-05-045	388-81-040	REP	94-10-065
388-33-545	REP	94-10-065	388-44-150	REP	94-05-045	388-81-042	REP-P	94-07-114
388-33-550	REP-P	94-07-114	388-44-160	REP	94-05-045	388-81-042	REP	94-10-065
388-33-550	REP	94-10-065	388-44-250	REP	94-05-045	388-81-043	REP-P	94-07-114
388-33-576	REP-P	94-07-114	388-44-280	REP	94-05-045	388-81-043	REP	94-10-065
388-33-576	REP	94-10-065	388-44-330	REP	94-05-045	388-81-044	REP-P	94-07-114
388-33-579	REP-P	94-07-114	388-49-015	AMD-P	94-11-064	388-81-044	REP	94-10-065
388-33-579	REP	94-10-065	388-49-015	AMD	94-13-203	388-81-047	REP-P	94-07-114
388-33-585	REP-P	94-07-114	388-49-020	PREP	94-13-118	388-81-047	REP	94-10-065
388-33-585	REP	94-10-065	388-49-020	AMD-P	94-13-133	388-81-050	REP-P	94-07-114
388-33-595	REP-P	94-07-114	388-49-020	PREP	94-14-047	388-81-050	REP	94-10-065
388-33-595	REP	94-10-065	388-49-100	PREP	94-14-046	388-81-052	REP-P	94-07-114
388-33-605	REP-P	94-07-114	388-49-110	PREP	94-14-018	388-81-052	REP	94-10-065
388-33-605	REP	94-10-065	388-49-190	PREP	94-13-116	388-81-055	REP-P	94-07-114
388-38-010	REP-P	94-07-114	388-49-190	AMD-P	94-13-132	388-81-055	REP	94-10-065
388-38-010	REP	94-10-065	388-49-210	PREP	94-13-117	388-81-060	REP-P	94-07-114
388-38-030	REP-P	94-07-114	388-49-210	AMD-P	94-13-131	388-81-060	REP	94-10-065
388-38-030	REP	94-10-065	388-49-330	PREP	94-13-129	388-81-065	REP-P	94-07-114
388-38-040	REP-P	94-07-114	388-49-340	AMD-P	94-13-007	388-81-065	REP-E	94-08-045
388-38-040	REP	94-10-065	388-49-360	PREP	94-14-045	388-81-065	REP-P	94-08-046
388-38-045	REP-P	94-07-114	388-49-380	PREP	94-14-045	388-81-065	REP	94-10-065
388-38-045	REP	94-10-065	388-49-410	AMD-P	94-13-026	388-81-065	REP-W	94-11-058
388-38-050	REP-P	94-07-114	388-49-430	AMD-P	94-13-026	388-81-065	RESCIND	94-11-061
388-38-050	REP	94-10-065	388-49-460	PREP	94-13-114	388-81-070	REP-P	94-07-114
388-38-08501	REP-P	94-07-114	388-49-460	AMD-P	94-13-130	388-81-070	REP	94-10-065
388-38-08501	REP	94-10-065	388-49-470	AMD-P	94-12-003	388-81-100	REP-P	94-07-114
388-38-110	REP-P	94-07-114	388-49-500	AMD-P	94-07-031	388-81-100	REP	94-10-065
388-38-110	REP	94-10-065	388-49-500	AMD	94-12-042	388-81-175	REP-P	94-07-114
388-38-120	REP-P	94-07-114	388-49-505	PREP	94-13-194	388-81-200	REP-P	94-07-114
388-38-120	REP	94-10-065	388-49-535	AMD-P	94-03-041	388-82-006	REP-P	94-07-114
388-38-150	REP-P	94-07-114	388-49-535	AMD-W	94-06-023	388-82-006	REP	94-10-065

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-82-008	REP-P	94-07-114	388-83-041	REP	94-10-065	388-92-041	REP	94-10-065
388-82-008	REP	94-10-065	388-83-046	REP-P	94-07-114	388-92-045	REP-P	94-07-114
388-82-010	REP-P	94-07-114	388-83-046	REP	94-10-065	388-92-045	REP	94-10-065
388-82-010	REP	94-10-065	388-83-130	REP-P	94-07-114	388-92-050	REP-P	94-07-114
388-82-115	REP-P	94-07-114	388-83-130	REP	94-10-065	388-92-050	REP	94-10-065
388-82-115	REP	94-10-065	388-83-200	REP-P	94-07-114	388-93-005	REP-P	94-07-114
388-82-126	REP-P	94-07-114	388-83-200	REP	94-10-065	388-93-005	REP	94-10-065
388-82-126	REP	94-10-065	388-83-210	REP-P	94-07-114	388-93-010	REP-P	94-07-114
388-82-130	REP-P	94-07-114	388-83-210	REP	94-10-065	388-93-010	REP	94-10-065
388-82-130	REP	94-10-065	388-83-220	REP-P	94-07-114	388-93-015	REP-P	94-07-114
388-82-135	REP-P	94-07-114	388-83-220	REP	94-10-065	388-93-015	REP	94-10-065
388-82-135	REP	94-10-065	388-84-105	REP-P	94-07-114	388-93-020	REP-P	94-07-114
388-82-140	REP-P	94-07-114	388-84-105	REP	94-10-065	388-93-020	REP	94-10-065
388-82-140	AMD-E	94-08-043	388-84-110	REP-P	94-07-114	388-93-025	REP-P	94-07-114
388-82-140	AMD-P	94-08-044	388-84-110	REP	94-10-065	388-93-025	REP	94-10-065
388-82-140	REP	94-10-065	388-84-115	AMD-P	94-05-026	388-93-030	REP-P	94-07-114
388-82-140	REP-W	94-11-059	388-84-115	REP-P	94-07-114	388-93-030	REP	94-10-065
388-82-140	RESCIND	94-11-063	388-84-115	AMD	94-07-132	388-93-035	REP-P	94-07-114
388-82-150	REP-P	94-07-114	388-84-115	REP	94-10-065	388-93-035	REP	94-10-065
388-82-150	AMD-E	94-08-043	388-84-120	REP-P	94-07-114	388-93-040	REP-P	94-07-114
388-82-150	AMD-P	94-08-044	388-84-120	REP	94-10-065	388-93-040	REP	94-10-065
388-82-150	REP	94-10-065	388-85-105	REP-P	94-07-114	388-93-045	REP-P	94-07-114
388-82-150	AMD-W	94-11-059	388-85-105	REP	94-10-065	388-93-045	REP	94-10-065
388-82-150	RESCIND	94-11-063	388-85-110	REP-P	94-07-114	388-93-050	REP-P	94-07-114
388-82-160	REP-P	94-07-114	388-85-110	REP	94-10-065	388-93-050	REP	94-10-065
388-82-160	AMD-E	94-08-043	388-85-115	REP-P	94-07-114	388-93-055	REP-P	94-07-114
388-82-160	AMD-P	94-08-044	388-85-115	REP	94-10-065	388-93-055	REP	94-10-065
388-82-160	REP	94-10-065	388-86-030	AMD-C	94-04-031	388-93-060	REP-P	94-07-114
388-82-160	AMD-W	94-11-059	388-86-030	AMD-C	94-05-044	388-93-060	REP	94-10-065
388-82-160	RESCIND	94-11-063	388-86-030	AMD-C	94-07-021	388-93-065	REP-P	94-07-114
388-83-005	REP-P	94-07-114	388-86-030	AMD	94-07-122	388-93-065	REP	94-10-065
388-83-005	REP	94-10-065	388-86-040	REP-C	94-05-043	388-93-075	REP-P	94-07-114
388-83-006	REP-P	94-07-114	388-86-040	REP	94-07-022	388-93-075	REP	94-10-065
388-83-006	REP	94-10-065	388-86-04001	NEW-C	94-05-043	388-93-080	REP-P	94-07-114
388-83-010	REP-P	94-07-114	388-86-04001	NEW	94-07-022	388-93-080	REP	94-10-065
388-83-010	REP	94-10-065	388-86-045	AMD	94-03-052	388-95-300	REP-P	94-07-114
388-83-012	REP-P	94-07-114	388-86-073	AMD-P	94-04-022	388-95-300	REP	94-10-065
388-83-012	REP	94-10-065	388-86-073	AMD-E	94-04-023	388-95-310	REP-P	94-07-114
388-83-013	REP-P	94-07-114	388-86-073	AMD	94-07-030	388-95-310	REP	94-10-065
388-83-013	REP	94-10-065	388-86-082	PREP	94-13-105	388-95-320	REP-P	94-07-114
388-83-014	REP-P	94-07-114	388-86-090	AMD-P	94-04-022	388-95-320	REP	94-10-065
388-83-014	REP	94-10-065	388-86-090	AMD-E	94-04-023	388-95-335	REP-P	94-07-114
388-83-015	REP-P	94-07-114	388-86-090	AMD	94-07-030	388-95-335	REP	94-10-065
388-83-015	REP	94-10-065	388-86-098	AMD-P	94-04-022	388-95-337	AMD-P	94-05-025
388-83-017	REP-P	94-07-114	388-86-098	AMD-E	94-04-023	388-95-337	REP-P	94-07-114
388-83-017	REP	94-10-065	388-86-098	AMD	94-07-030	388-95-337	AMD	94-07-130
388-83-020	REP-P	94-07-114	388-87-300	REP-E	94-08-045	388-95-337	REP	94-10-065
388-83-020	REP	94-10-065	388-87-300	REP-P	94-08-046	388-95-340	REP-P	94-07-114
388-83-025	REP-P	94-07-114	388-87-300	REP	94-11-057	388-95-340	AMD-E	94-08-041
388-83-025	REP	94-10-065	388-92-005	REP-P	94-07-114	388-95-340	AMD-P	94-08-042
388-83-026	REP-P	94-07-114	388-92-005	REP	94-10-065	388-95-340	REP	94-10-065
388-83-026	REP	94-10-065	388-92-015	REP-P	94-07-114	388-95-340	AMD-W	94-11-060
388-83-029	REP-P	94-07-114	388-92-015	REP	94-10-065	388-95-340	RESCIND	94-11-062
388-83-029	REP	94-10-065	388-92-025	REP-P	94-07-114	388-95-360	REP-P	94-07-114
388-83-031	REP-P	94-07-114	388-92-025	REP	94-10-065	388-95-360	AMD-E	94-08-043
388-83-031	REP	94-10-065	388-92-027	REP-P	94-07-114	388-95-360	AMD-P	94-08-044
388-83-03101	REP-P	94-07-114	388-92-027	REP	94-10-065	388-95-360	REP	94-10-065
388-83-03101	REP	94-10-065	388-92-030	REP-P	94-07-114	388-95-360	AMD-W	94-11-059
388-83-032	REP-P	94-07-114	388-92-030	REP	94-10-065	388-95-360	RESCIND	94-11-063
388-83-032	AMD-E	94-08-043	388-92-034	REP-P	94-07-114	388-95-380	REP-P	94-07-114
388-83-032	AMD-P	94-08-044	388-92-034	REP	94-10-065	388-95-380	REP	94-10-065
388-83-032	REP	94-10-065	388-92-036	REP-P	94-07-114	388-95-390	REP-P	94-07-114
388-83-032	AMD-W	94-11-059	388-92-036	AMD-E	94-08-041	388-95-390	REP	94-10-065
388-83-032	RESCIND	94-11-063	388-92-036	AMD-P	94-08-042	388-95-395	REP-P	94-07-114
388-83-033	REP-P	94-07-114	388-92-036	REP	94-10-065	388-95-395	REP	94-10-065
388-83-033	AMD-E	94-08-043	388-92-036	AMD-W	94-11-060	388-95-400	REP-P	94-07-114
388-83-033	AMD-P	94-08-044	388-92-036	RESCIND	94-11-062	388-95-400	REP	94-10-065
388-83-033	REP	94-10-065	388-92-040	REP-P	94-07-114	388-96-010	AMD-P	94-07-109
388-83-033	AMD-W	94-11-059	388-92-040	REP	94-10-065	388-96-010	AMD	94-12-043
388-83-033	RESCIND	94-11-063	388-92-041	AMD-E	94-05-027	388-96-113	AMD-P	94-07-109
388-83-036	REP-P	94-07-114	388-92-041	AMD-P	94-05-028	388-96-113	AMD	94-12-043
388-83-036	REP	94-10-065	388-92-041	REP-P	94-07-114	388-96-134	AMD-P	94-07-109
388-83-041	REP-P	94-07-114	388-92-041	AMD	94-07-131	388-96-134	AMD	94-12-043

TABLE

Table of WAC Sections Affected

WAC #	WSR #	WAC #	WSR #	WAC #	WSR #			
388-505-0510	NEW-P	94-07-114	388-511-1105	NEW	94-10-065	388-515-1530	NEW-P	94-07-114
388-505-0510	NEW	94-10-065	388-511-1110	NEW-P	94-07-114	388-515-1530	NEW	94-10-065
388-505-0520	NEW-P	94-07-114	388-511-1110	NEW	94-10-065	388-517-1710	NEW-P	94-07-114
388-505-0520	NEW	94-10-065	388-511-1115	NEW-P	94-07-114	388-517-1710	NEW	94-10-065
388-505-0530	NEW-P	94-07-114	388-511-1115	NEW	94-10-065	388-517-1715	NEW-P	94-07-114
388-505-0530	NEW	94-10-065	388-511-1130	NEW-P	94-07-114	388-517-1715	NEW	94-10-065
388-505-0540	NEW-P	94-07-114	388-511-1130	NEW	94-10-065	388-517-1720	NEW-P	94-07-114
388-505-0540	NEW	94-10-065	388-511-1140	NEW-P	94-07-114	388-517-1720	NEW	94-10-065
388-505-0560	NEW-P	94-07-114	388-511-1140	NEW	94-10-065	388-517-1730	NEW-P	94-07-114
388-505-0560	NEW	94-10-065	388-511-1150	NEW-P	94-07-114	388-517-1730	NEW	94-10-065
388-505-0570	NEW-P	94-07-114	388-511-1150	NEW	94-10-065	388-517-1740	NEW-P	94-07-114
388-505-0570	NEW	94-10-065	388-511-1160	NEW-P	94-07-114	388-517-1740	NEW	94-10-065
388-505-0580	NEW-P	94-07-114	388-511-1160	NEW	94-10-065	388-517-1750	NEW-P	94-07-114
388-505-0580	NEW	94-10-065	388-511-1170	NEW-P	94-07-114	388-517-1750	NEW	94-10-065
388-505-0590	NEW-P	94-07-114	388-511-1170	NEW	94-10-065	388-517-1760	NEW-P	94-07-114
388-505-0590	NEW	94-10-065	388-512-1210	NEW-P	94-07-114	388-517-1760	NEW	94-10-065
388-505-0595	NEW-P	94-07-114	388-512-1210	NEW	94-10-065	388-518-1805	NEW-P	94-07-114
388-505-0595	NEW	94-10-065	388-512-1215	NEW-P	94-07-114	388-518-1805	NEW	94-10-065
388-506-0610	NEW-P	94-07-114	388-512-1215	NEW	94-10-065	388-518-1810	NEW-P	94-07-114
388-506-0610	NEW	94-10-065	388-512-1220	NEW-P	94-07-114	388-518-1810	NEW	94-10-065
388-506-0610	PREP	94-13-103	388-512-1220	NEW	94-10-065	388-518-1820	NEW-P	94-07-114
388-506-0610	AMD-E	94-14-054	388-512-1225	NEW-P	94-07-114	388-518-1820	NEW	94-10-065
388-506-0610	AMD-P	94-14-057	388-512-1225	NEW	94-10-065	388-518-1830	NEW-P	94-07-114
388-506-0620	NEW-P	94-07-114	388-512-1230	NEW-P	94-07-114	388-518-1830	NEW	94-10-065
388-506-0620	NEW	94-10-065	388-512-1230	NEW	94-10-065	388-518-1840	NEW-P	94-07-114
388-506-0630	NEW-P	94-07-114	388-512-1235	NEW-P	94-07-114	388-518-1840	NEW	94-10-065
388-506-0630	NEW	94-10-065	388-512-1235	NEW	94-10-065	388-518-1850	NEW-P	94-07-114
388-507-0710	NEW-P	94-07-114	388-512-1240	NEW-P	94-07-114	388-518-1850	NEW	94-10-065
388-507-0710	NEW	94-10-065	388-512-1240	NEW	94-10-065	388-519-1905	NEW-P	94-07-114
388-507-0720	NEW-P	94-07-114	388-512-1245	NEW-P	94-07-114	388-519-1905	NEW	94-10-065
388-507-0720	NEW	94-10-065	388-512-1245	NEW	94-10-065	388-519-1910	NEW-P	94-07-114
388-507-0730	NEW-P	94-07-114	388-512-1250	NEW-P	94-07-114	388-519-1910	NEW	94-10-065
388-507-0730	NEW	94-10-065	388-512-1250	NEW	94-10-065	388-519-1930	NEW-P	94-07-114
388-507-0740	NEW-P	94-07-114	388-512-1255	NEW-P	94-07-114	388-519-1930	NEW	94-10-065
388-507-0740	NEW	94-10-065	388-512-1255	NEW	94-10-065	388-519-1950	NEW-P	94-07-114
388-508-0805	NEW-P	94-07-114	388-512-1260	NEW-P	94-07-114	388-519-1950	NEW	94-10-065
388-508-0805	NEW	94-10-065	388-512-1260	NEW	94-10-065	388-521-2105	NEW-P	94-07-114
388-508-0810	NEW-P	94-07-114	388-512-1265	NEW-P	94-07-114	388-521-2105	NEW	94-10-065
388-508-0810	NEW	94-10-065	388-512-1265	NEW	94-10-065	388-521-2110	NEW-P	94-07-114
388-508-0820	NEW-P	94-07-114	388-512-1275	NEW-P	94-07-114	388-521-2110	NEW	94-10-065
388-508-0820	NEW	94-10-065	388-512-1275	NEW	94-10-065	388-521-2120	NEW-P	94-07-114
388-508-0830	NEW-P	94-07-114	388-512-1280	NEW-P	94-07-114	388-521-2120	NEW	94-10-065
388-508-0830	NEW	94-10-065	388-512-1280	NEW	94-10-065	388-521-2130	NEW-P	94-07-114
388-508-0835	NEW-P	94-07-114	388-513-1305	NEW-P	94-07-114	388-521-2130	NEW	94-10-065
388-508-0835	NEW	94-10-065	388-513-1305	NEW	94-10-065	388-521-2140	NEW-P	94-07-114
388-508-0840	NEW-P	94-07-114	388-513-1310	NEW-P	94-07-114	388-521-2140	NEW	94-10-065
388-508-0840	NEW	94-10-065	388-513-1310	NEW	94-10-065	388-521-2150	NEW-P	94-07-114
388-509-0905	NEW-P	94-07-114	388-513-1315	NEW-P	94-07-114	388-521-2150	NEW	94-10-065
388-509-0905	NEW	94-10-065	388-513-1315	NEW	94-10-065	388-521-2155	NEW-P	94-07-114
388-509-0910	NEW-P	94-07-114	388-513-1320	NEW-P	94-07-114	388-521-2155	NEW	94-10-065
388-509-0910	NEW	94-10-065	388-513-1320	NEW	94-10-065	388-521-2160	NEW-P	94-07-114
388-509-0910	PREP	94-13-102	388-513-1330	NEW-P	94-07-114	388-521-2160	NEW	94-10-065
388-509-0910	AMD-E	94-14-053	388-513-1330	NEW	94-10-065	388-521-2170	NEW-P	94-07-114
388-509-0910	AMD-P	94-14-055	388-513-1340	NEW-P	94-07-114	388-521-2170	NEW	94-10-065
388-509-0920	NEW-P	94-07-114	388-513-1340	NEW	94-10-065	388-522-2205	NEW-P	94-07-114
388-509-0920	NEW	94-10-065	388-513-1345	NEW-P	94-07-114	388-522-2205	NEW	94-10-065
388-509-0920	PREP	94-13-102	388-513-1345	NEW	94-10-065	388-522-2210	NEW-P	94-07-114
388-509-0920	AMD-E	94-14-053	388-513-1350	NEW-P	94-07-114	388-522-2210	NEW	94-10-065
388-509-0920	AMD-P	94-14-055	388-513-1350	NEW	94-10-065	388-522-2230	NEW-P	94-07-114
388-509-0940	NEW-P	94-07-114	388-513-1360	NEW-P	94-07-114	388-522-2230	NEW	94-10-065
388-509-0940	NEW	94-10-065	388-513-1360	NEW	94-10-065	388-523-2305	NEW-P	94-07-114
388-509-0960	NEW-P	94-07-114	388-513-1365	NEW-P	94-07-114	388-523-2305	NEW	94-10-065
388-509-0960	NEW	94-10-065	388-513-1365	NEW	94-10-065	388-523-2320	NEW-P	94-07-114
388-509-0960	PREP	94-13-102	388-513-1380	NEW-P	94-07-114	388-523-2320	NEW	94-10-065
388-509-0960	AMD-E	94-14-053	388-513-1380	NEW	94-10-065	388-524-2405	NEW-P	94-07-114
388-509-0960	AMD-P	94-14-055	388-513-1395	NEW-P	94-07-114	388-524-2405	NEW	94-10-065
388-509-0970	NEW-P	94-07-114	388-513-1395	NEW	94-10-065	388-524-2420	NEW-P	94-07-114
388-509-0970	NEW	94-10-065	388-513-1396	NEW-P	94-07-114	388-524-2420	NEW	94-10-065
388-510-1020	NEW-P	94-07-114	388-513-1396	NEW	94-10-065	388-525-2505	NEW-P	94-07-114
388-510-1020	NEW	94-10-065	388-515-1505	NEW-P	94-07-114	388-525-2505	NEW	94-10-065
388-510-1030	NEW-P	94-07-114	388-515-1505	NEW	94-10-065	388-525-2520	NEW-P	94-07-114
388-510-1030	NEW	94-10-065	388-515-1510	NEW-P	94-07-114	388-525-2520	NEW	94-10-065
388-511-1105	NEW-P	94-07-114	388-515-1510	NEW	94-10-065	388-525-2570	NEW-P	94-07-114

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
388-525-2570	NEW	94-10-065	390-17-405	NEW	94-11-017	392-140-505	NEW-P	94-04-122
388-526-2610	NEW-P	94-07-114	390-20-148	NEW-P	94-07-035	392-140-505	NEW	94-12-002
388-526-2610	NEW	94-10-065	390-20-148	NEW	94-11-016	392-140-506	NEW-P	94-04-122
388-527-2710	NEW-P	94-07-114	390-20-052	AMD-P	94-07-035	392-140-506	NEW	94-12-002
388-527-2710	NEW	94-10-065	390-20-052	AMD	94-11-016	392-140-507	NEW-P	94-04-122
388-527-2710	PREP	94-13-104	390-24-030	REP	94-05-010	392-140-507	NEW	94-12-002
388-527-2710	AMD-E	94-14-052	390-24-031	REP	94-05-010	392-140-508	NEW-P	94-04-122
388-527-2710	AMD-P	94-14-056	390-24-160	AMD	94-05-010	392-140-508	NEW	94-12-002
388-527-2720	NEW-P	94-07-114	390-37-070	AMD	94-05-010	392-140-509	NEW-P	94-04-122
388-527-2720	NEW	94-10-065	390-37-105	AMD	94-05-010	392-140-509	NEW	94-12-002
388-528-2810	NEW-P	94-07-114	390-37-142	AMD	94-05-010	392-140-510	NEW-P	94-04-122
388-528-2810	NEW	94-10-065	392-121-187	NEW-P	94-13-107	392-140-510	NEW	94-12-002
388-529-2910	NEW-P	94-07-114	392-127-700	REP	94-04-096	392-140-511	NEW-P	94-04-122
388-529-2910	NEW	94-10-065	392-127-703	REP	94-04-096	392-140-511	NEW	94-12-002
388-529-2920	NEW-P	94-07-114	392-127-705	REP	94-04-096	392-140-512	NEW-P	94-04-122
388-529-2920	NEW	94-10-065	392-127-710	REP	94-04-096	392-140-512	NEW	94-12-002
388-529-2930	NEW-P	94-07-114	392-127-715	REP	94-04-096	392-140-516	NEW-P	94-04-122
388-529-2930	NEW	94-10-065	392-127-720	REP	94-04-096	392-140-516	NEW	94-12-002
388-529-2940	NEW-P	94-07-114	392-127-725	REP	94-04-096	392-140-517	NEW-P	94-04-122
388-529-2940	NEW	94-10-065	392-127-730	REP	94-04-096	392-140-517	NEW	94-12-002
388-529-2950	NEW-P	94-07-114	392-127-735	REP	94-04-096	392-140-518	NEW-P	94-04-122
388-529-2950	NEW	94-10-065	392-127-740	REP	94-04-096	392-140-518	NEW	94-12-002
388-529-2960	NEW-P	94-07-114	392-127-745	REP	94-04-096	392-140-519	NEW-P	94-04-122
388-529-2960	NEW	94-10-065	392-127-750	REP	94-04-096	392-140-519	NEW	94-12-002
388-538-110	AMD	94-04-038	392-127-755	REP	94-04-096	392-140-525	NEW-P	94-11-066
390-05-235	AMD-P	94-07-088	392-127-760	REP	94-04-096	392-140-525	NEW	94-14-050
390-05-235	AMD	94-11-018	392-127-765	REP	94-04-096	392-140-527	NEW-P	94-11-066
390-12-010	AMD	94-05-010	392-127-770	REP	94-04-096	392-140-527	NEW	94-14-050
390-14-040	AMD	94-05-010	392-127-775	REP	94-04-096	392-140-529	NEW-P	94-11-066
390-16-011	AMD	94-05-011	392-127-780	REP	94-04-096	392-140-529	NEW	94-14-050
390-16-012	AMD	94-05-011	392-127-785	REP	94-04-096	392-140-530	NEW-P	94-11-066
390-16-031	AMD	94-05-011	392-127-790	REP	94-04-096	392-140-530	NEW	94-14-050
390-16-032	AMD	94-05-011	392-127-795	REP	94-04-096	392-140-531	NEW-P	94-11-066
390-16-033	AMD	94-05-011	392-127-800	REP	94-04-096	392-140-531	NEW	94-14-050
390-16-041	AMD	94-05-011	392-127-805	REP	94-04-096	392-140-533	NEW-P	94-11-066
390-16-050	AMD	94-05-011	392-127-815	REP	94-04-096	392-140-533	NEW	94-14-050
390-16-071	NEW-E	94-07-001	392-127-820	REP	94-04-096	392-140-535	NEW-P	94-11-066
390-16-071	NEW-P	94-07-035	392-127-825	REP	94-04-096	392-140-535	NEW	94-14-050
390-16-071	NEW	94-11-016	392-127-830	REP	94-04-096	392-140-536	NEW-P	94-11-066
390-16-207	AMD-P	94-07-035	392-140-190	REP-P	94-11-066	392-140-536	NEW	94-14-050
390-16-207	AMD	94-11-016	392-140-190	REP	94-14-050	392-140-537	NEW-P	94-11-066
390-16-238	NEW-P	94-05-097	392-140-191	REP-P	94-11-066	392-140-537	NEW	94-14-050
390-16-238	NEW	94-07-141	392-140-191	REP	94-14-050	392-140-538	NEW-P	94-11-066
390-16-245	NEW-P	94-05-097	392-140-192	REP-P	94-11-066	392-140-538	NEW	94-14-050
390-16-245	NEW	94-07-141	392-140-192	REP	94-14-050	392-140-540	NEW-P	94-13-210
390-16-300	AMD-P	94-05-097	392-140-193	REP-P	94-11-066	392-140-542	NEW-P	94-13-210
390-16-308	AMD-P	94-07-035	392-140-193	REP	94-14-050	392-140-543	NEW-P	94-13-210
390-16-308	AMD-P	94-07-088	392-140-194	REP-P	94-11-066	392-140-544	NEW-P	94-13-210
390-16-308	AMD-W	94-07-089	392-140-194	REP	94-14-050	392-140-545	NEW-P	94-13-210
390-16-308	AMD	94-11-016	392-140-195	REP-P	94-11-066	392-140-548	NEW-P	94-13-210
390-16-309	NEW-E	94-07-001	392-140-195	REP	94-14-050	392-140-549	NEW-P	94-13-210
390-16-309	NEW-P	94-07-035	392-140-196	REP-P	94-11-066	392-140-551	NEW-P	94-13-210
390-16-309	NEW-W	94-08-080	392-140-196	REP	94-14-050	392-140-552	NEW-P	94-13-210
390-16-309	NEW	94-11-016	392-140-197	REP-P	94-11-066	392-140-553	NEW-P	94-13-210
390-16-310	AMD-P	94-07-035	392-140-197	REP	94-14-050	392-140-555	NEW-P	94-13-210
390-16-310	AMD-P	94-07-088	392-140-198	REP-P	94-11-066	392-140-557	NEW-P	94-13-210
390-16-310	AMD-W	94-07-089	392-140-198	REP	94-14-050	392-140-559	NEW-P	94-13-210
390-16-310	AMD	94-11-016	392-140-199	REP-P	94-11-066	392-141	PREP	94-14-076
390-16-311	NEW-P	94-07-142	392-140-199	REP	94-14-050	392-141-160	AMD-P	94-14-093
390-16-311	NEW	94-11-017	392-140-200	REP-P	94-11-066	392-141-175	AMD-P	94-14-093
390-16-315	AMD-P	94-05-097	392-140-200	REP	94-14-050	392-157-005	NEW	94-04-097
390-16-324	NEW-P	94-03-087	392-140-201	REP-P	94-11-066	392-157-010	NEW	94-04-097
390-16-324	NEW-W	94-04-121	392-140-201	REP	94-14-050	392-157-015	NEW	94-04-097
390-17-071	NEW	94-05-010	392-140-202	REP-P	94-11-066	392-157-020	NEW	94-04-097
390-17-300	AMD-P	94-03-087	392-140-202	REP	94-14-050	392-157-025	NEW	94-04-097
390-17-300	AMD-W	94-04-121	392-140-500	NEW-P	94-04-122	392-157-030	NEW	94-04-097
390-17-300	AMD	94-07-141	392-140-500	NEW	94-12-002	392-157-035	NEW	94-04-097
390-17-315	AMD-P	94-03-087	392-140-501	NEW-P	94-04-122	392-157-040	NEW	94-04-097
390-17-315	AMD-W	94-04-121	392-140-501	NEW	94-12-002	392-157-045	NEW	94-04-097
390-17-315	AMD	94-07-141	392-140-503	NEW-P	94-04-122	392-157-050	NEW	94-04-097
390-17-320	NEW-P	94-07-035	392-140-503	NEW	94-12-002	392-157-055	NEW	94-04-097
390-17-320	NEW	94-11-016	392-140-504	NEW-P	94-04-122	392-157-060	NEW	94-04-097
390-17-405	NEW-P	94-07-142	392-140-504	NEW	94-12-002	392-157-065	NEW	94-04-097

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
392-157-070	NEW	94-04-097	392-196-055	AMD-P	94-11-120	415-108-560	NEW-P	94-08-087
392-157-075	NEW	94-04-097	392-196-060	AMD-P	94-11-120	415-108-560	NEW	94-12-014
392-157-080	NEW	94-04-097	392-196-066	REP-P	94-11-120	415-108-570	NEW-P	94-08-087
392-157-085	NEW	94-04-097	392-196-077	NEW-P	94-11-120	415-108-570	NEW	94-12-014
392-157-090	NEW	94-04-097	392-196-080	REP-P	94-11-120	415-108-580	NEW-P	94-05-013
392-157-095	NEW	94-04-097	392-196-085	REP-P	94-11-120	415-108-580	NEW	94-09-040
392-157-100	NEW	94-04-097	392-196-086	NEW-P	94-11-120	415-112-015	AMD-P	94-07-144
392-157-105	NEW	94-04-097	392-196-089	NEW-P	94-11-120	415-112-015	AMD	94-11-009
392-157-110	NEW	94-04-097	392-196-095	REP-P	94-11-120	415-112-409	NEW-P	94-13-048
392-157-115	NEW	94-04-097	392-196-100	AMD-P	94-11-120	415-112-415	AMD-P	94-07-144
392-157-120	NEW	94-04-097	392-196-105	REP-P	94-11-120	415-112-415	AMD	94-11-009
392-157-125	NEW	94-04-097	392-320-005	NEW-P	94-04-025	415-112-840	NEW-P	94-05-013
392-157-130	NEW	94-04-097	392-320-005	NEW	94-07-102	415-112-840	NEW-P	94-07-144
392-157-135	NEW	94-04-097	392-320-010	NEW-P	94-04-025	415-112-840	NEW	94-09-040
392-157-140	NEW	94-04-097	392-320-010	NEW	94-07-102	415-112-850	NEW	94-11-009
392-157-145	NEW	94-04-097	392-320-015	NEW-P	94-04-025	419-70-010	AMD-P	94-13-043
392-157-150	NEW	94-04-097	392-320-015	NEW	94-07-102	419-70-020	AMD-P	94-13-043
392-157-155	NEW	94-04-097	392-320-020	NEW-P	94-04-025	419-70-040	AMD-P	94-13-043
392-157-160	NEW	94-04-097	392-320-020	NEW	94-07-102	419-72-010	AMD-P	94-13-044
392-157-165	NEW	94-04-097	392-320-025	NEW-P	94-04-025	419-72-015	AMD-P	94-13-044
392-157-170	NEW	94-04-097	392-320-025	NEW	94-07-102	419-72-020	AMD-P	94-13-044
392-157-175	NEW	94-04-097	392-320-030	NEW-P	94-04-025	419-72-025	AMD-P	94-13-044
392-157-180	NEW	94-04-097	392-320-030	NEW	94-07-102	419-72-030	AMD-P	94-13-044
392-163-400	AMD-P	94-04-094	392-320-035	NEW-P	94-04-025	419-72-035	AMD-P	94-13-044
392-163-400	AMD	94-07-103	392-320-035	NEW	94-07-102	419-72-040	AMD-P	94-13-044
392-163-405	AMD-P	94-04-094	392-320-040	NEW-P	94-04-025	419-72-045	AMD-P	94-13-044
392-163-405	AMD	94-07-103	392-320-040	NEW	94-07-102	419-72-050	AMD-P	94-13-044
392-163-440	AMD-P	94-04-094	392-320-045	NEW-P	94-04-025	419-72-055	AMD-P	94-13-044
392-163-440	AMD	94-07-103	392-320-045	NEW	94-07-102	419-72-060	AMD-P	94-13-044
392-163-445	AMD-P	94-04-094	392-320-050	NEW-P	94-04-025	419-72-065	AMD-P	94-13-044
392-163-445	AMD	94-07-103	392-320-050	NEW	94-07-102	419-72-068	NEW-P	94-13-044
392-163-530	AMD-P	94-04-094	392-320-055	NEW-P	94-04-025	419-72-070	AMD-P	94-13-044
392-163-530	AMD	94-07-103	392-320-055	NEW	94-07-102	419-72-075	AMD-P	94-13-044
392-163-580	AMD-P	94-04-094	392-320-060	NEW-P	94-04-025	419-72-080	AMD-P	94-13-044
392-163-580	AMD	94-07-103	392-320-060	NEW	94-07-102	419-72-090	REP-P	94-13-044
392-169-005	NEW	94-04-095	392-320-010	NEW-P	94-08-074	419-72-095	REP-P	94-13-044
392-169-010	NEW	94-04-095	392-330-010	NEW	94-12-019	434-55	PREP	94-12-085
392-169-015	NEW	94-04-095	392-330-020	NEW-P	94-08-074	434-60-210	NEW	94-07-018
392-169-020	NEW	94-04-095	392-330-020	NEW	94-12-019	434-60-215	NEW	94-07-018
392-169-022	NEW	94-04-095	392-330-030	NEW-P	94-08-074	434-60-220	NEW	94-07-018
392-169-023	NEW	94-04-095	392-330-030	NEW	94-12-019	434-60-230	NEW	94-07-018
392-169-025	NEW	94-04-095	392-330-040	NEW-P	94-08-074	434-60-240	NEW	94-07-018
392-169-030	NEW	94-04-095	392-330-040	NEW	94-12-019	434-60-250	NEW	94-07-018
392-169-035	NEW	94-04-095	392-330-050	NEW-P	94-08-074	434-60-260	NEW	94-07-018
392-169-040	NEW	94-04-095	392-330-050	NEW	94-12-019	434-60-270	NEW	94-07-018
392-169-045	NEW	94-04-095	392-330-060	NEW-P	94-08-074	434-60-280	NEW	94-07-018
392-169-050	NEW	94-04-095	392-330-060	NEW	94-12-019	434-60-290	NEW	94-07-018
392-169-055	NEW	94-04-095	392-330-070	NEW-P	94-08-074	434-60-300	NEW	94-07-018
392-169-057	NEW	94-04-095	392-330-070	NEW	94-12-019	434-60-310	NEW	94-07-018
392-169-060	NEW	94-04-095	392-330-080	NEW-P	94-08-074	434-60-320	NEW	94-07-018
392-169-065	NEW	94-04-095	392-330-080	NEW	94-12-019	434-60-330	NEW	94-07-018
392-169-070	NEW	94-04-095	415-02-030	AMD-P	94-05-012	434-60-340	NEW	94-07-018
392-169-075	NEW	94-04-095	415-02-030	AMD	94-09-039	434-60-350	NEW	94-07-018
392-169-080	NEW	94-04-095	415-02-110	NEW-P	94-05-012	434-110-070	AMD-E	94-12-086
392-169-085	NEW	94-04-095	415-02-110	NEW	94-09-039	434-110-075	AMD-E	94-12-086
392-169-090	NEW	94-04-095	415-100-190	NEW-P	94-07-143	434-120-120	NEW-W	94-10-054
392-169-095	NEW	94-04-095	415-100-190	NEW	94-11-008	434-663-001	NEW-W	94-03-081
392-169-100	NEW	94-04-095	415-104-111	NEW-P	94-05-013	434-663-005	NEW-W	94-03-081
392-169-105	NEW	94-04-095	415-104-111	NEW	94-09-040	434-663-020	NEW-W	94-03-081
392-169-110	NEW	94-04-095	415-108-010	AMD-P	94-07-144	434-663-030	NEW-W	94-03-081
392-169-115	NEW	94-04-095	415-108-010	AMD	94-11-009	434-663-050	NEW-W	94-03-081
392-169-120	NEW	94-04-095	415-108-461	NEW-P	94-13-048	434-663-060	NEW-W	94-03-081
392-169-125	NEW	94-04-095	415-108-461	NEW-S	94-13-197	434-663-070	NEW-W	94-03-081
392-196-011	AMD-P	94-11-120	415-108-462	NEW-P	94-13-048	434-663-100	NEW	94-04-102
392-196-015	REP-P	94-11-120	415-108-462	NEW-S	94-13-197	434-663-200	NEW	94-04-102
392-196-020	AMD-P	94-11-120	415-108-510	AMD-P	94-07-144	434-663-210	NEW	94-04-102
392-196-025	REP-P	94-11-120	415-108-510	AMD	94-11-009	434-663-220	NEW	94-04-102
392-196-030	REP-P	94-11-120	415-108-530	NEW-P	94-07-144	434-663-230	NEW	94-04-102
392-196-035	REP-P	94-11-120	415-108-530	NEW	94-11-009	434-663-240	NEW	94-04-102
392-196-037	REP-P	94-11-120	415-108-540	NEW-P	94-07-144	434-663-250	NEW	94-04-102
392-196-040	REP-P	94-11-120	415-108-540	NEW	94-11-009	434-663-260	NEW	94-04-102
392-196-045	REP-P	94-11-120	415-108-550	NEW-P	94-08-087	434-663-300	NEW	94-04-102
392-196-050	REP-P	94-11-120	415-108-550	NEW	94-12-014	434-663-310	NEW	94-04-102

TABLE

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
434-663-320	NEW	94-04-102	458-19-030	NEW	94-07-066	458-30-320	PREP	94-13-096
434-663-400	NEW	94-04-102	458-19-035	NEW	94-07-066	458-30-325	PREP	94-13-096
434-663-410	NEW	94-04-102	458-19-040	NEW	94-07-066	458-30-330	PREP	94-13-096
434-663-420	NEW	94-04-102	458-19-045	NEW	94-07-066	458-30-335	PREP	94-13-096
434-663-430	NEW	94-04-102	458-19-050	NEW	94-07-066	458-30-340	PREP	94-13-096
434-663-440	NEW	94-04-102	458-19-055	NEW	94-07-066	458-30-345	PREP	94-13-096
434-663-450	NEW	94-04-102	458-19-060	NEW	94-07-066	458-30-350	PREP	94-13-096
434-663-460	NEW	94-04-102	458-19-065	NEW	94-07-066	458-30-355	PREP	94-13-096
434-663-470	NEW	94-04-102	458-19-070	NEW	94-07-066	458-30-500	PREP	94-13-096
434-663-480	NEW	94-04-102	458-19-075	NEW	94-07-066	458-30-510	PREP	94-13-096
434-663-490	NEW	94-04-102	458-19-080	NEW	94-07-066	458-30-520	PREP	94-13-096
434-663-500	NEW	94-04-102	458-20-102	AMD-E	94-05-083	458-30-530	PREP	94-13-096
434-663-510	NEW	94-04-102	458-20-102	AMD-P	94-06-004	458-30-540	PREP	94-13-096
434-663-520	NEW	94-04-102	458-20-102	AMD-E	94-13-030	458-30-550	PREP	94-13-096
434-663-530	NEW	94-04-102	458-20-102	AMD	94-13-031	458-30-560	PREP	94-13-096
434-663-600	NEW	94-04-102	458-20-121	AMD	94-13-033	458-30-570	PREP	94-13-096
434-663-610	NEW	94-04-102	458-20-122	AMD-P	94-03-035	458-30-580	PREP	94-13-096
434-663-620	NEW	94-04-102	458-20-122	AMD	94-07-049	458-30-590	AMD-P	94-08-082
434-663-630	NEW	94-04-102	458-20-125	REP-P	94-03-037	458-30-590	AMD	94-11-098
440-22-205	NEW-W	94-07-072	458-20-125	REP	94-07-051	458-40-650	AMD-P	94-10-063
446-65	AMD-P	94-05-023	458-20-165	AMD	94-09-016	458-40-650	AMD	94-14-048
446-65	AMD	94-08-004	458-20-166	AMD	94-05-001	458-40-660	AMD-P	94-10-063
446-65-005	AMD-P	94-05-023	458-20-167	AMD-P	94-03-047	458-40-660	AMD	94-14-048
446-65-005	AMD	94-08-004	458-20-167	AMD	94-07-047	458-40-670	AMD-P	94-10-063
448-13-080	AMD-W	94-07-073	458-20-168	AMD-E	94-05-084	458-40-670	AMD	94-14-048
448-13-210	AMD-W	94-07-073	458-20-168	AMD	94-11-097	458-53-160	AMD	94-05-064
456-09-010	AMD-P	94-03-056	458-20-174	AMD-P	94-07-023	458-61-010	REP	94-04-088
456-09-010	AMD	94-07-044	458-20-17401	NEW-P	94-07-024	458-61-015	NEW	94-04-088
456-09-325	AMD-P	94-03-056	458-20-179	AMD	94-13-034	458-61-020	REP	94-04-088
456-09-325	AMD	94-07-044	458-20-185	AMD-P	94-07-025	458-61-025	NEW	94-04-088
456-09-365	AMD-P	94-03-056	458-20-185	AMD	94-10-061	458-61-030	AMD	94-04-088
456-09-365	AMD	94-07-044	458-20-186	AMD-P	94-07-026	458-61-040	REP	94-04-088
456-10-010	AMD-P	94-03-057	458-20-186	AMD	94-10-062	458-61-050	AMD	94-04-088
456-10-010	AMD	94-07-043	458-20-209	AMD-P	94-03-036	458-61-060	AMD	94-04-088
456-10-325	AMD-P	94-03-057	458-20-209	AMD	94-07-050	458-61-070	AMD	94-04-088
456-10-325	AMD	94-07-043	458-20-210	AMD-P	94-03-034	458-61-080	AMD	94-04-088
456-10-360	AMD-P	94-03-057	458-20-210	AMD	94-07-048	458-61-090	AMD	94-04-088
456-10-360	AMD	94-07-043	458-20-226	AMD-P	94-10-013	458-61-100	AMD	94-04-088
458-16-100	AMD	94-07-008	458-20-238	PREP	94-03-046	458-61-110	REP	94-04-088
458-16-110	AMD	94-07-008	458-20-258	AMD-E	94-05-086	458-61-120	AMD	94-04-088
458-16-111	AMD	94-07-008	458-20-258	AMD-E	94-13-029	458-61-130	AMD	94-04-088
458-16-130	AMD	94-07-008	458-20-261	NEW-P	94-07-027	458-61-140	REP	94-04-088
458-16-150	AMD	94-07-008	458-20-901	NEW-E	94-05-085	458-61-150	NEW	94-04-088
458-16-165	NEW	94-07-008	458-20-901	NEW-E	94-13-032	458-61-200	AMD	94-04-088
458-16-180	AMD	94-07-008	458-30-200	PREP	94-13-096	458-61-210	AMD	94-04-088
458-16-190	AMD	94-07-008	458-30-205	PREP	94-13-096	458-61-220	AMD	94-04-088
458-16-200	AMD	94-07-008	458-30-210	PREP	94-13-096	458-61-225	NEW	94-04-088
458-16-210	AMD	94-07-008	458-30-215	PREP	94-13-096	458-61-230	AMD	94-04-088
458-16-215	PREP	94-07-123	458-30-220	PREP	94-13-096	458-61-235	NEW	94-04-088
458-16-215	NEW-P	94-11-099	458-30-225	PREP	94-13-096	458-61-240	REP	94-04-088
458-16-220	AMD	94-07-008	458-30-230	PREP	94-13-096	458-61-250	AMD	94-04-088
458-16-230	AMD	94-07-008	458-30-232	PREP	94-13-096	458-61-255	NEW	94-04-088
458-16-240	AMD	94-07-008	458-30-235	PREP	94-13-096	458-61-270	REP	94-04-088
458-16-245	NEW	94-07-008	458-30-240	PREP	94-13-096	458-61-280	REP	94-04-088
458-16-260	AMD	94-07-008	458-30-242	PREP	94-13-096	458-61-290	AMD	94-04-088
458-16-270	AMD	94-07-008	458-30-245	PREP	94-13-096	458-61-300	AMD	94-04-088
458-16-280	AMD	94-07-008	458-30-250	PREP	94-13-096	458-61-310	REP	94-04-088
458-16-282	AMD	94-07-008	458-30-255	PREP	94-13-096	458-61-320	REP	94-04-088
458-16-284	NEW	94-07-008	458-30-260	PREP	94-13-096	458-61-330	AMD	94-04-088
458-16-286	NEW	94-07-008	458-30-262	AMD	94-05-062	458-61-335	AMD	94-04-088
458-16-290	AMD	94-07-008	458-30-265	PREP	94-13-096	458-61-340	AMD	94-04-088
458-16-300	AMD	94-07-008	458-30-267	PREP	94-13-096	458-61-360	REP	94-04-088
458-16-310	AMD	94-07-008	458-30-270	PREP	94-13-096	458-61-370	AMD	94-04-088
458-16-320	NEW	94-07-008	458-30-275	PREP	94-13-096	458-61-374	NEW	94-04-088
458-16-330	NEW	94-07-008	458-30-280	PREP	94-13-096	458-61-375	NEW	94-04-088
458-16A-010	PREP	94-10-060	458-30-285	PREP	94-13-096	458-61-376	NEW	94-04-088
458-16A-020	PREP	94-10-060	458-30-290	PREP	94-13-096	458-61-380	REP	94-04-088
458-18-220	AMD	94-05-063	458-30-295	PREP	94-13-096	458-61-390	REP	94-04-088
458-19-005	NEW	94-07-066	458-30-300	PREP	94-13-096	458-61-400	AMD	94-04-088
458-19-010	NEW	94-07-066	458-30-305	PREP	94-13-096	458-61-410	AMD	94-04-088
458-19-015	NEW	94-07-066	458-30-310	PREP	94-13-096	458-61-411	NEW	94-04-088
458-19-020	NEW	94-07-066	458-30-315	PREP	94-13-096	458-61-412	NEW	94-04-088
458-19-025	NEW	94-07-066	458-30-317	PREP	94-13-096	458-61-420	AMD	94-04-088

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
458-61-425	AMD	94-04-088	468-10-020	REP-P	94-12-070	468-10-430	NEW	94-14-101
458-61-430	AMD	94-04-088	468-10-020	REP	94-14-101	468-10-440	NEW-P	94-12-070
458-61-440	REP	94-04-088	468-10-030	REP-P	94-12-070	468-10-440	NEW	94-14-101
458-61-450	REP-W	94-13-089	468-10-030	REP	94-14-101	468-10-450	NEW-P	94-12-070
458-61-460	REP	94-04-088	468-10-040	REP-P	94-12-070	468-10-450	NEW	94-14-101
458-61-470	AMD	94-04-088	468-10-040	REP	94-14-101	468-10-460	NEW-P	94-12-070
458-61-480	AMD	94-04-088	468-10-050	REP-P	94-12-070	468-10-460	NEW	94-14-101
458-61-490	REP	94-04-088	468-10-050	REP	94-14-101	468-10-470	NEW-P	94-12-070
458-61-500	REP	94-04-088	468-10-060	REP-P	94-12-070	468-10-470	NEW	94-14-101
458-61-510	AMD	94-04-088	468-10-060	REP	94-14-101	468-10-480	NEW-P	94-12-070
458-61-520	AMD	94-04-088	468-10-070	REP-P	94-12-070	468-10-480	NEW	94-14-101
458-61-530	REP	94-04-088	468-10-070	REP	94-14-101	468-10-490	NEW-P	94-12-070
458-61-540	AMD	94-04-088	468-10-080	REP-P	94-12-070	468-10-490	NEW	94-14-101
458-61-545	AMD	94-04-088	468-10-080	REP	94-14-101	468-10-500	NEW-P	94-12-070
458-61-548	NEW-W	94-13-089	468-10-090	REP-P	94-12-070	468-10-500	NEW	94-14-101
458-61-550	AMD	94-04-088	468-10-090	REP	94-14-101	468-10-510	NEW-P	94-12-070
458-61-553	NEW	94-04-088	468-10-100	REP-P	94-12-070	468-10-510	NEW	94-14-101
458-61-555	AMD	94-04-088	468-10-100	REP	94-14-101	468-10-520	NEW-P	94-12-070
458-61-560	REP	94-04-088	468-10-110	REP-P	94-12-070	468-10-520	NEW	94-14-101
458-61-570	REP	94-04-088	468-10-110	REP	94-14-101	468-10-530	NEW-P	94-12-070
458-61-590	AMD	94-04-088	468-10-120	REP-P	94-12-070	468-10-530	NEW	94-14-101
458-61-600	AMD	94-04-088	468-10-120	REP	94-14-101	468-16-090	AMD	94-05-004
458-61-610	AMD	94-04-088	468-10-130	REP-P	94-12-070	468-16-110	AMD	94-05-004
458-61-620	REP	94-04-088	468-10-130	REP	94-14-101	468-16-120	AMD	94-05-004
458-61-630	REP	94-04-088	468-10-140	REP-P	94-12-070	468-16-130	AMD	94-05-004
458-61-640	AMD	94-04-088	468-10-140	REP	94-14-101	468-16-150	AMD	94-05-004
458-61-650	AMD	94-04-088	468-10-150	REP-P	94-12-070	468-16-160	AMD	94-05-004
458-61-660	AMD	94-04-088	468-10-150	REP	94-14-101	468-16-180	AMD	94-05-004
458-61-670	AMD	94-04-088	468-10-160	REP-P	94-12-070	468-16-210	AMD	94-05-004
458-61-680	REP	94-04-088	468-10-160	REP	94-14-101	468-38-020	AMD-P	94-03-042
458-61-690	REP	94-04-088	468-10-170	REP-P	94-12-070	468-38-020	AMD	94-07-054
460-44A-500	AMD	94-03-061	468-10-170	REP	94-14-101	468-38-030	AMD-P	94-03-042
460-44A-501	AMD	94-03-061	468-10-180	REP-P	94-12-070	468-38-030	AMD	94-07-054
460-44A-502	AMD	94-03-061	468-10-180	REP	94-14-101	468-38-075	AMD-E	94-02-064
460-44A-504	AMD	94-03-061	468-10-190	REP-P	94-12-070	468-38-075	AMD-P	94-03-043
460-44A-505	AMD	94-03-061	468-10-190	REP	94-14-101	468-38-075	AMD	94-07-055
460-44A-506	AMD	94-03-061	468-10-200	REP-P	94-12-070	468-48-010	NEW-P	94-08-054
461-08-001	NEW-E	94-07-060	468-10-200	REP	94-14-101	468-48-010	NEW	94-14-065
461-08-001	NEW-P	94-07-095	468-10-210	REP-P	94-12-070	468-48-020	NEW-P	94-08-054
461-08-001	NEW	94-12-028	468-10-210	REP	94-14-101	468-48-020	NEW	94-14-065
461-08-047	NEW-E	94-07-060	468-10-220	REP-P	94-12-070	468-66-010	AMD-P	94-09-031
461-08-047	NEW-P	94-07-095	468-10-220	REP	94-14-101	468-66-010	AMD	94-12-049
461-08-047	NEW	94-12-028	468-10-230	REP-P	94-12-070	468-66-050	AMD-P	94-09-031
461-08-144	NEW-E	94-07-060	468-10-230	REP	94-14-101	468-66-050	AMD	94-12-049
461-08-144	NEW-P	94-07-095	468-10-232	REP-P	94-12-070	468-66-055	NEW-P	94-09-031
461-08-144	NEW	94-12-028	468-10-232	REP	94-14-101	468-66-055	NEW	94-12-049
461-08-156	NEW-E	94-07-060	468-10-234	REP-P	94-12-070	468-66-060	AMD-P	94-09-031
461-08-156	NEW-P	94-07-095	468-10-234	REP	94-14-101	468-66-060	AMD	94-12-049
461-08-156	NEW	94-12-028	468-10-240	REP-P	94-12-070	468-66-080	AMD-P	94-09-031
461-08-160	AMD-E	94-07-060	468-10-240	REP	94-14-101	468-66-080	AMD	94-12-049
461-08-160	AMD-P	94-07-095	468-10-250	REP-P	94-12-070	468-66-130	AMD-P	94-09-031
461-08-160	AMD	94-12-028	468-10-250	REP	94-14-101	468-66-130	AMD	94-12-049
461-08-165	REP-E	94-07-060	468-10-260	REP-P	94-12-070	468-66-175	REP-P	94-09-031
461-08-165	REP-P	94-07-095	468-10-260	REP	94-14-101	468-66-175	REP	94-12-049
461-08-165	REP	94-12-028	468-10-270	REP-P	94-12-070	468-100-010	AMD-P	94-12-071
461-08-167	NEW-E	94-07-060	468-10-270	REP	94-14-101	468-100-010	AMD	94-14-102
461-08-167	NEW-P	94-07-095	468-10-280	REP-P	94-12-070	468-300-010	AMD-P	94-04-077
461-08-167	NEW	94-12-028	468-10-280	REP	94-14-101	468-300-010	AMD	94-07-104
461-08-237	NEW-E	94-07-060	468-10-290	REP-P	94-12-070	468-300-010	AMD-P	94-14-026
461-08-237	NEW-P	94-07-095	468-10-290	REP	94-14-101	468-300-020	AMD-P	94-04-077
461-08-237	NEW	94-12-028	468-10-300	REP-P	94-12-070	468-300-020	AMD	94-07-104
463-39-005	AMD-P	94-12-036	468-10-300	REP	94-14-101	468-300-020	AMD-P	94-14-026
463-39-070	NEW-P	94-12-036	468-10-310	REP-P	94-12-070	468-300-040	AMD-P	94-04-077
463-39-090	NEW-P	94-12-036	468-10-310	REP	94-14-101	468-300-040	AMD	94-07-104
463-39-115	AMD-P	94-12-036	468-10-320	REP-P	94-12-070	468-300-040	AMD-P	94-14-026
463-39-230	NEW-P	94-12-036	468-10-320	REP	94-14-101	480-04-030	AMD-P	94-07-139
463-54-020	AMD-P	94-12-036	468-10-400	NEW-P	94-12-070	480-04-030	AMD	94-11-002
463-54-040	AMD-P	94-12-036	468-10-400	NEW	94-14-101	480-12-045	AMD-P	94-07-135
463-54-050	AMD-P	94-12-036	468-10-410	NEW-P	94-12-070	480-12-045	AMD	94-11-022
463-54-060	AMD-P	94-12-036	468-10-410	NEW	94-14-101	480-12-050	AMD-P	94-07-135
463-54-070	AMD-P	94-12-036	468-10-420	NEW-P	94-12-070	480-12-050	AMD	94-11-022
468-10-010	REP-P	94-12-070	468-10-420	NEW	94-14-101	480-12-083	AMD-P	94-11-103
468-10-010	REP	94-14-101	468-10-430	NEW-P	94-12-070	480-12-083	AMD	94-14-014

Table of WAC Sections Affected

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
480-12-137	NEW-P	94-07-134	480-120-056	AMD-P	94-13-027	484-20-116	NEW-P	94-09-043
480-12-137	NEW	94-11-001	480-120-061	AMD-P	94-13-027	484-20-116	NEW-S	94-14-037
480-12-180	AMD-P	94-07-135	480-120-081	AMD-P	94-13-027	484-20-117	NEW-P	94-09-043
480-12-180	AMD-W	94-11-019	480-120-101	AMD-P	94-13-027	484-20-117	NEW-S	94-14-037
480-12-180	AMD-P	94-11-104	480-120-138	AMD-P	94-13-027	484-20-120	AMD-P	94-09-043
480-12-180	AMD	94-14-013	480-120-141	AMD-P	94-13-027	484-20-120	AMD-S	94-14-037
480-12-190	AMD-P	94-07-135	480-149-120	AMD-P	94-11-101	484-20-135	AMD-P	94-09-043
480-12-190	AMD	94-11-022	480-149-120	AMD	94-14-012	484-20-135	AMD-S	94-14-037
480-12-260	AMD	94-03-002	484-20	AMD-P	94-09-043	484-20-140	AMD-P	94-09-043
480-12-321	AMD	94-03-001	484-20	AMD-S	94-14-037	484-20-140	AMD-S	94-14-037
480-12-455	AMD-P	94-07-134	484-20-010	AMD-P	94-09-043	484-20-145	AMD-P	94-09-043
480-12-455	AMD	94-11-001	484-20-010	AMD-S	94-14-037	484-20-145	AMD-S	94-14-037
480-12-990	AMD-P	94-07-135	484-20-015	AMD-P	94-09-043	484-20-150	AMD-P	94-09-043
480-12-990	AMD	94-11-022	484-20-015	AMD-S	94-14-037	484-20-150	AMD-S	94-14-037
480-30-015	AMD-P	94-11-103	484-20-020	AMD-P	94-09-043	490-500	PREP	94-14-096
480-30-015	AMD	94-14-014	484-20-020	AMD-S	94-14-037	504-25	PREP	94-13-141
480-30-032	AMD-P	94-07-137	484-20-023	AMD-P	94-09-043	504-25	PREP	94-13-142
480-30-032	AMD	94-11-021	484-20-023	AMD-S	94-14-037	516-26-010	AMD-P	94-07-117
480-30-050	AMD-P	94-07-137	484-20-024	NEW-P	94-09-043	516-26-020	AMD-P	94-07-117
480-30-050	AMD	94-11-021	484-20-024	NEW-S	94-14-037	516-26-030	AMD-P	94-07-117
480-30-095	AMD-P	94-07-137	484-20-025	AMD-P	94-09-043	516-26-035	AMD-P	94-07-117
480-30-095	AMD	94-11-021	484-20-025	AMD-S	94-14-037	516-26-040	AMD-P	94-07-117
480-30-100	AMD-P	94-07-137	484-20-030	AMD-P	94-09-043	516-26-045	AMD-P	94-07-117
480-30-100	AMD-W	94-11-020	484-20-030	AMD-S	94-14-037	516-26-050	AMD-P	94-07-117
480-30-100	AMD-P	94-11-104	484-20-035	AMD-P	94-09-043	516-26-055	AMD-P	94-07-117
480-30-100	AMD	94-14-013	484-20-035	AMD-S	94-14-037	516-26-060	AMD-P	94-07-117
480-35-040	AMD-P	94-10-071	484-20-040	AMD-P	94-09-043	516-26-070	AMD-P	94-07-117
480-35-040	AMD	94-14-010	484-20-040	AMD-S	94-14-037	516-26-080	AMD-P	94-07-117
480-35-080	AMD-P	94-10-071	484-20-045	AMD-P	94-09-043	516-26-085	AMD-P	94-07-117
480-35-080	AMD	94-14-010	484-20-045	AMD-S	94-14-037	516-26-090	AMD-P	94-07-117
480-35-090	AMD-P	94-10-071	484-20-050	AMD-P	94-09-043	516-26-095	AMD-P	94-07-117
480-35-090	AMD	94-14-010	484-20-050	REP-S	94-14-037	516-26-100	AMD-P	94-07-117
480-35-100	AMD-P	94-10-071	484-20-055	AMD-P	94-09-043			
480-35-100	AMD	94-14-010	484-20-055	AMD-S	94-14-037			
480-35-110	AMD-P	94-10-071	484-20-060	AMD-P	94-09-043			
480-35-110	AMD	94-14-010	484-20-060	AMD-S	94-14-037			
480-35-120	AMD-P	94-10-071	484-20-061	NEW-P	94-09-043			
480-35-120	AMD	94-14-010	484-20-061	NEW-S	94-14-037			
480-40-015	AMD-P	94-11-103	484-20-062	NEW-P	94-09-043			
480-40-015	AMD	94-14-014	484-20-062	NEW-S	94-14-037			
480-40-070	AMD-P	94-10-072	484-20-063	NEW-P	94-09-043			
480-40-070	AMD	94-14-015	484-20-063	NEW-S	94-14-037			
480-40-075	AMD-P	94-10-072	484-20-065	AMD	94-04-001			
480-40-075	AMD	94-14-015	484-20-068	AMD-P	94-09-043			
480-40-110	AMD-P	94-10-072	484-20-068	AMD-S	94-14-037			
480-40-110	AMD	94-14-015	484-20-070	AMD-P	94-09-043			
480-40-120	AMD-P	94-10-072	484-20-070	AMD-S	94-14-037			
480-40-120	AMD	94-14-015	484-20-075	REP-P	94-09-043			
480-40-130	AMD-P	94-10-072	484-20-075	REP-S	94-14-037			
480-40-130	AMD	94-14-015	484-20-080	AMD-P	94-09-043			
480-40-140	REP-P	94-10-072	484-20-080	AMD-S	94-14-037			
480-40-140	REP	94-14-015	484-20-085	AMD-P	94-09-043			
480-50-010	AMD	94-03-003	484-20-085	AMD-S	94-14-037			
480-50-040	AMD	94-03-003	484-20-087	AMD-P	94-09-043			
480-60-990	AMD-P	94-07-138	484-20-087	AMD-S	94-14-037			
480-60-990	AMD	94-11-003	484-20-089	AMD-P	94-09-043			
480-62-085	AMD-P	94-07-138	484-20-089	AMD-S	94-14-037			
480-62-085	AMD	94-11-003	484-20-090	AMD-P	94-09-043			
480-62-090	AMD-P	94-07-138	484-20-090	AMD-S	94-14-037			
480-62-090	AMD	94-11-003	484-20-095	AMD-P	94-09-043			
480-70-055	AMD-P	94-11-102	484-20-095	AMD-S	94-14-037			
480-70-055	AMD	94-14-011	484-20-100	AMD-P	94-09-043			
480-70-250	AMD-P	94-07-136	484-20-100	AMD-S	94-14-037			
480-70-250	AMD	94-11-004	484-20-103	NEW-P	94-09-043			
480-70-400	AMD-P	94-11-102	484-20-103	NEW-S	94-14-037			
480-70-400	AMD	94-14-011	484-20-105	AMD-P	94-09-043			
480-107-020	AMD	94-07-045	484-20-105	AMD-S	94-14-037			
480-107-050	AMD	94-07-045	484-20-110	REP-P	94-09-043			
480-107-060	AMD	94-07-045	484-20-110	REP-S	94-14-037			
480-107-070	AMD	94-07-045	484-20-111	NEW-P	94-09-043			
480-107-080	AMD	94-07-045	484-20-111	NEW-S	94-14-037			
480-107-100	AMD	94-07-045	484-20-115	AMD-P	94-09-043			
480-107-120	AMD	94-07-045	484-20-115	AMD-S	94-14-037			

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	
Definitions	PROP	94-13-059	
	PROP	94-13-060	
Enforcement procedures	PERM	94-02-070	
	PROP	94-13-060	
Fees	PROP	94-13-060	
	PROP	94-13-062	
Hearings	PERM	94-02-069	
Operations and procedures	PERM	94-02-068	
Program standards	PERM	94-02-070	
Prohibited acts	PROP	94-13-060	
	PROP	94-13-061	
Quality assurance review program	PERM	94-02-070	
	PERM	94-02-071	

AGRICULTURE, DEPARTMENT OF

Animal health			
laboratory fees	PROP	94-09-072	
	PERM	94-12-053	
Apiaries			
pollination service fee	PROP	94-09-052	
registration fees, schedule	PROP	94-01-162	
	PERM	94-05-049	
	PERM	94-12-045	
Apple commission			
meetings	MISC	94-02-063	
Apples			
assessments			
apple pest certification	EMER	94-04-091	
gift grade, standards	PERM	94-03-021	
inspection fees	PROP	94-13-041	
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	
	PERM	94-13-070	
fees	PROP	94-10-074	
	PROP	94-10-075	
	PERM	94-13-069	
	PERM	94-13-070	
livestock markets	PROP	94-10-074	
	PERM	94-13-069	
Brucellosis, tuberculosis, and scrapie control	PROP	94-01-177	
	PERM	94-05-008	
Certified feed lots			
fees	PROP	94-10-076	
	PERM	94-13-068	
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	
	PERM	94-13-068	
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	
	PERM	94-12-034	
	PERM	94-12-035	
	PERM	94-12-045	
	PERM	94-12-046	
	PERM	94-12-053	
	PERM	94-13-068	
	PERM	94-13-069	
	PERM	94-03-026	
Holly, cut spray standards			
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	
	PROP	94-13-041	
Licenses			
commission merchants, dealers, brokers, and agents, fees	PROP	94-09-055	
	PERM	94-12-034	
Livestock markets			
brand inspections	PROP	94-10-074	
facilities	PROP	94-10-074	
fees	PROP	94-10-074	
	PERM	94-13-069	
Milk			
processing plants			
licenses	EMER	94-13-074	
	PROP	94-14-034	
	PROP	94-14-060	
	PREP	94-14-094	
	PROP	94-01-151	
	PERM	94-05-040	
processor assessments			
Noxious weed control board			
meetings	MISC	94-13-209	
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	
	PERM	94-13-195	
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	

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Possoms			school buses, bonds issuance for acquisition (1994, No. 6)	MISC	94-10-018
phalangeridae, import and possession restrictions	EMER	94-09-004	telephone records of legislature (1994, No. 5)	MISC	94-08-083
Potato commission meetings	MISC	94-02-086	tuberculosis, authority of local health officer to control spread (1993, No. 20)	MISC	94-02-061
Red raspberry commission meetings	MISC	94-02-049	Organization and operation	PROP	94-06-050
	MISC	94-07-014		PERM	94-13-039
Scrapie, brucellosis, and tuberculosis control	PROP	94-01-177	Public records, availability	PROP	94-06-050
	PERM	94-05-008		PERM	94-13-039
Seed potatoes					
permit issuance	PROP	94-07-111	BATES TECHNICAL COLLEGE		
	PERM	94-11-069	Meetings	MISC	94-01-045
winter test tolerance	PROP	94-07-110			
	PERM	94-11-070	BELLEVUE COMMUNITY COLLEGE		
Seeds			Admission	PROP	94-01-091
certification procedures and fees	PROP	94-09-046		PERM	94-04-098
	PERM	94-12-046	Meetings	MISC	94-03-011
sampling and testing	PROP	94-09-046	Refund policy	PERM	94-01-181
	PERM	94-12-046	Registration	PROP	94-01-091
Strawberry commission meetings	MISC	94-03-067		PERM	94-04-098
Tuberculosis			Residency classification	PROP	94-01-091
brush-tail possums (phalangeridae), import and possession restrictions	EMER	94-09-004		PERM	94-04-098
Tuberculosis, brucellosis, and scrapie control	PROP	94-01-177	BELLINGHAM TECHNICAL COLLEGE		
	PERM	94-05-008	Meetings	MISC	94-03-013
Weeds				MISC	94-03-033
noxious weed list	MISC	94-01-076		MISC	94-05-030
Weights and measures calibration services, fees	PROP	94-09-054		MISC	94-07-006
	PERM	94-12-035		MISC	94-08-086
Wheat commission meetings	MISC	94-01-020		MISC	94-10-087
	MISC	94-13-037		MISC	94-13-010
Wine commission meetings	MISC	94-02-088		MISC	94-14-019
ARTS COMMISSION			BENTON FRANKLIN WALLA WALLA COUNTIES		
Rules coordinator	MISC	94-01-099	CLEAN AIR AUTHORITY		
ATTORNEY GENERAL'S OFFICE			Air operating permits	PROP	94-13-135
Lemon law administration	PROP	94-06-050	BIG BEND COMMUNITY COLLEGE		
	PERM	94-13-039	Public records, availability	PROP	94-01-049
Opinion, notice of request for	MISC	94-01-189		PERM	94-07-019
	MISC	94-05-090	Rules coordinator	MISC	94-07-005
	MISC	94-06-067	BLIND, DEPARTMENT OF SERVICES FOR THE		
	MISC	94-09-064	Definitions	PROP	94-07-067
	MISC	94-11-121		PERM	94-11-054
	MISC	94-12-094	Vendors		
Opinions			department responsibility to maintain facilities	PROP	94-07-067
district courts, judges pro tempore (1994, No. 4)	MISC	94-08-059		PROP	94-11-053
elected officials' salaries (1994, No. 8)	MISC	94-11-015		PROP	94-12-072
firearms in school facilities (1994, No. 1)	MISC	94-04-029	BOILER RULES, BOARD OF		
higher education institutions, fundraising and gifts (1993, No. 18)	MISC	94-01-144	(See LABOR AND INDUSTRIES, DEPARTMENT OF)		
judicial branch, travel and expense reimbursement policies (1994, No. 7)	MISC	94-10-032	BUILDING CODE COUNCIL		
higher education institutions, public works contracts (1993, No. 19)	MISC	94-01-145	Amendments to state building code policies and procedures	PERM	94-05-058
marine safety, office's authority to establish emergency response system and tugboat (1994, No. 2)	MISC	94-07-004		PROP	94-05-102
port districts, pilotage service (1994, No. 3)	MISC	94-08-058	window thermal efficiency standards	EMER	94-05-007
salaries of elected officials (1994, No. 8)	MISC	94-11-015		PERM	94-05-059
			Energy code		
			log and solid timber homes	PROP	94-12-017
			Meetings	MISC	94-06-011
				MISC	94-13-038
			Residences, consideration of local government amendments	PROP	94-12-015
			Ventilation and indoor air quality code	PROP	94-12-016

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

operating permits	PERM	94-02-041	Chelan County	PROP	94-03-092
oxygenated gasoline program	PERM	94-07-040		PERM	94-10-081
particulate matter standard for Seattle, Duwamish Valley and Tacoma tideflats	MISC	94-03-065	Gig Harbor, city of	PROP	94-07-074
Puget Sound carbon monoxide state implementation plan	MISC	94-12-084	Olympia, city of	PERM	94-14-029
registration program				PROP	94-07-119
interim fee	PROP	94-04-105	Orting, city of	PERM	94-13-047
	PERM	94-10-042	Port Angeles, city of	PREP	94-13-158
			Port Orchard, city of	PROP	94-04-107
toxic air pollutants, control of sources	PERM	94-03-072	Port Townsend, city of	PERM	94-10-082
woodstoves	MISC	94-01-026		PROP	94-01-174
Annual rule plan	MISC	94-01-170		PROP	94-05-038
Aquaculture			Raymond, city of	PERM	94-07-013
floating net pens sediment criteria	PREP	94-13-161		PROP	94-07-120
Beverage containers	PROP	94-03-071	Renton, city of	PERM	94-13-046
	PERM	94-07-078		PROP	94-14-086
Biosolids management program	PREP	94-14-084	San Juan County	PROP	94-10-041
Centennial clean water	PERM	94-04-030		PERM	94-14-030
Clean Air Act			Seattle, city of	PREP	94-13-156
civil sanctions	PROP	94-10-078	Shelton, city of	PREP	94-13-155
	PERM	94-14-067	Snohomish County	PERM	94-03-095
excluded categories of waste	PROP	94-01-173	Tacoma, city of	PREP	94-13-157
	PROP	94-08-092	Tumwater, city of	PROP	94-03-094
	PERM	94-12-018		PERM	94-10-080
facilities, requirements	PROP	94-01-089	Solid waste management sludge	PREP	94-14-084
toxic air pollutants, control of sources	PERM	94-03-072	Tire recycling and removal	PROP	94-03-071
	PERM	94-01-060		PERM	94-07-078
tracking system	PROP	94-01-089	Wastewater		
Dairy waste general discharge permit	MISC	94-10-028	dairy waste general discharge permit discharge permit program	MISC	94-10-028
Dangerous waste designation	PROP	94-01-089	fees	PROP	94-02-080
Environmental Policy Act exemptions from detailed statement requirements	PROP	94-03-071		PROP	94-05-082
	PERM	94-07-078	Water quality	PERM	94-10-027
Forest practices			centennial clean water		
forested bogs and fens protection	EMER	94-04-108	sand and gravel operations permit program	MISC	94-04-030
	PROP	94-08-071	Water resources		
	EMER	94-12-054	Columbia River		
Fresh fruit packing industry water discharge permit	MISC	94-03-091	instream resources protection	PROP	94-14-085
Gravel mining and quarrying industry water discharge permit program	MISC	94-07-106	Columbia River Basin water rights	PREP	94-13-162
Growth Management Act integration with State Environmental Policy Act (SEPA)	EMER	94-12-032		MISC	94-13-212
Marine finfish rearing facilities sediment criteria	PREP	94-13-161	Snake River resources management program	PROP	94-14-085
Model Toxics Control Act responsiveness summary	MISC	94-03-096	Woodstoves		
Motor vehicles			buy back program	MISC	94-01-026
emission inspection	PERM	94-05-039	sales ban on uncertified woodstoves	MISC	94-01-026
Noise control					
watercraft noise levels	PROP	94-05-037	EDMONDS COMMUNITY COLLEGE		
	PERM	94-12-001	Meetings	MISC	94-01-086
Oil handling facilities operations and design standards	PROP	94-01-171		MISC	94-02-023
	PROP	94-01-172		MISC	94-03-076
	PERM	94-10-083		MISC	94-05-068
	PERM	94-10-084	Students' rights and responsibilities disciplinary actions	MISC	94-07-056
Puget Sound regional council joint public hearing	MISC	94-05-091		MISC	94-09-036
	MISC	94-06-054	EDUCATION, STATE BOARD OF	MISC	94-11-084
Resource damage assessment committee meetings	MISC	94-01-061	Administrator internship program	PROP	94-14-024
	MISC	94-13-163		PERM	94-14-049
Sand and gravel operations water and discharge permit	MISC	94-13-164	American Indian language and culture, instruction	PERM	94-03-104
Shoreline master programs			Certification requirements	PERM	94-01-101
Asotin County	PROP	94-03-093	Continuing education definition	PERM	94-01-104
			Corporal punishment conditions and prohibitions	PERM	94-03-102

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Credit for high school graduation, definition	PERM	94-03-100	FINANCIAL MANAGEMENT, OFFICE OF 1995 state paydates	PROP	94-10-055
Educational center, "educational clinic" changed to "educational center"	PERM	94-03-103		PERM	94-13-097
Educational staff associates assignment	PERM	94-01-103	Financial institutions, department of loans to department director and employees by financial institutions	PERM	94-09-010
Exit examination	PERM	94-01-102	Rules coordinator	MISC	94-06-057
General educational development (GED) test eligibility, authority to regulate	PERM	94-03-101	FISH AND WILDLIFE, DEPARTMENT OF (See also FISHERIES, DEPARTMENT OF , and WILDLIFE, COMMISSION AND DEPARTMENT)		
High school credit, definition	PERM	94-03-100	<u>Fishing, commercial</u>		
	PROP	94-08-067	baitfish		
	PERM	94-13-017	areas and seasons	EMER	94-09-021
Meetings	MISC	94-01-029	coastal bottomfish		
Regional committees			catch limits	PROP	94-10-073
election of members	PROP	94-08-103		PERM	94-13-077
	PERM	94-13-018		EMER 94-14-071	
School construction			sablefish	EMER	94-11-073
contracts, awarding of	PERM	94-01-013		EMER	94-13-015
documents, approval	PERM	94-01-014		PERM	94-13-077
growth impact fees and mitigation payments	PERM	94-01-030	whiting	EMER	94-11-074
payments, sequence	PROP	94-08-104	licenses	PROP	94-11-005
	PERM	94-13-019		EMER	94-11-006
retainage process	PROP	94-05-088	Puget Sound bottomfish		
	PROP	94-08-068	trawl fishing	PROP	94-13-064
	PERM 94-14-028			PREP 94-14-078	
site acceptance criteria	PERM	94-01-014	marine fish		
School facilities			rule and definitions	PROP	94-12-007
modernization, eligibility for financial assistance	PROP	94-08-105		PERM	94-12-009
	PERM	94-13-020	salmon	MISC	94-12-061
Teachers			Columbia River above Bonneville	EMER	94-11-106
certification requirements	PERM	94-01-101	Columbia River below Bonneville	EMER	94-07-009
Teaching internship certificates	PROP	94-08-106	Columbia River tributaries		
	PERM	94-13-021	areas and seasons	EMER	94-09-022
				EMER	94-13-016
				EMER 94-14-036	
EMPLOYMENT SECURITY DEPARTMENT			Grays Harbor		
Housekeeping changes	PREP	94-14-061	areas and seasons	EMER	94-09-070
Overpayments				PERM	94-13-014
interest charges	EMER	94-02-028	Puget Sound		
	PROP	94-04-124	areas and seasons	PROP	94-09-071
	PERM	94-10-044	Willapa Bay		
Temporary total disability definitions	EMER	94-02-029	area and seasons	PROP	94-09-070
	PERM	94-07-115		PERM	94-13-013
exclusions	EMER	94-02-029	sea cucumbers		
	PERM	94-07-115	areas and seasons	EMER	94-10-037
failure to apply in timely manner	EMER	94-02-029		EMER	94-13-040
	PERM	94-07-115		EMER	94-13-136
injuries, additional	EMER	94-02-029	shad	EMER 94-14-042	
	PERM	94-07-115	Columbia River	EMER	94-11-107
				EMER	94-13-121
				EMER 94-14-020	
ENERGY FACILITY SITE EVALUATION COUNCIL			shellfish		
Radioactive emissions from facilities	PROP	94-12-036	rules and definitions	PROP	94-12-007
				PERM	94-12-009
ENERGY OFFICE				MISC	94-12-061
Electric energy curtailment plan	PROP	94-08-070	shrimp fishery		
	PROP	94-11-128	Puget Sound	PERM	94-07-092
				EMER	94-11-072
EVERETT COMMUNITY COLLEGE			spawn on kelp		
Rules coordinator	MISC	94-01-071	licenses	EMER	94-07-063
				EMER	94-07-077
EVERGREEN STATE COLLEGE, THE			vessels		
Meetings	MISC	94-01-092	licenses	PROP	94-11-005
Rules coordinator	MISC	94-01-072		EMER	94-11-006
FINANCIAL INSTITUTIONS, DEPARTMENT OF			Northern squawfish sport-reward fishery		
Credit unions			<u>Fishing, personal use</u>		
common bond, definition	PROP	94-13-043	bottomfish		
field of membership expansion	PROP	94-13-044	areas and seasons	EMER	94-10-043
Mortgage brokers and loan originators licensing	PERM	94-03-009	definitions	EMER	94-10-043
Transactions, registration exemptions	PERM	94-03-061			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

food fish		Skokomish River	PROP	94-09-069
areas and seasons	EMER		PROP	94-14-106
rules and definitions	PROP	Sol Duc River	EMER	94-13-071
	PERM	Spada Lake	EMER	94-09-005
free fishing days	EMER	Suiattle River	PROP	94-09-069
game fish seasons and catch limits, 1994-95			PROP	94-14-106
Alkali Lake	PROP	Toutle River	PROP	94-09-069
Baker Lake	PERM		PROP	94-14-106
	EMER	Tucannon River	PERM	94-09-067
Big Twin Lake	PREP	Wannacut Lake	PROP	94-11-125
	PROP		PERM	94-14-035
Caliche Lakes	PROP	Washougal River	PROP	94-09-069
	PERM		PROP	94-14-106
Cascade River	PROP	general provisions		
	PROP	lakes	EMER	94-11-068
Cedar River	PROP	halibut		
	PERM	areas and seasons	EMER	94-10-043
Columbia River	PERM		EMER	94-12-062
Coweeman River	PROP	licenses	EMER	94-13-063
	PROP		PROP	94-11-005
Cowlitz River	PROP	salmon	EMER	94-11-006
	PROP	areas and seasons	EMER	94-08-014
Dabblers Lake	PROP		EMER	94-08-049
	PERM		EMER	94-10-036
Dungeness River	PROP		EMER	94-10-043
	PROP		EMER	94-10-068
Duwamish River	EMER		EMER	94-11-075
Ellen Lake	PROP		EMER	94-11-127
	PERM		PREP	94-13-214
Elochoman River	PROP		EMER	94-14-062
	PROP		PREP	94-14-079
Grande Ronde River	PERM	nonanadromous salmon		
Gray Wolf River	PROP	shad	EMER	94-12-012
Grays River	PROP	areas and seasons	EMER	94-10-043
	PROP	shellfish		
Green River	PROP	areas and seasons		
	EMER	abalone	EMER	94-10-043
	PROP	native clams	EMER	94-07-052
Hampton Lakes	PROP		EMER	94-10-043
	PERM		EMER	94-12-033
Hen Lake	PROP		PREP	94-14-079
	PERM		EMER	94-07-052
Homestead Lake	PROP		EMER	94-07-076
	PERM		EMER	94-10-043
Horsethief Lake	PREP		EMER	94-12-033
Kalama River	PROP		EMER	94-07-076
	PROP		EMER	94-10-043
Katey Lake	PROP		EMER	94-12-033
	PERM		EMER	94-07-003
Lake Washington	PROP		EMER	94-08-009
	PERM		EMER	94-09-023
Lake Wenatchee	EMER		EMER	94-10-038
Lewis River	PROP		EMER	94-10-043
	PROP		PROP	94-14-068
Magpie Lake	PROP		PERM	94-14-069
	PERM		EMER	94-11-072
Marie Lake	PROP		EMER	94-12-008
	PERM		EMER	94-13-076
Nooksack River	PROP		PREP	94-14-079
	PERM			
Quilcene River	PROP			
	PROP		EMER	94-10-043
Quillayute River	EMER			
Salmon Creek	PROP		PROP	94-11-005
	PROP		EMER	94-11-006
Sauk River	PERM	Game management units		
	PROP	boundary descriptions	PERM	94-11-031
	PROP		PERM	94-11-032
Shannon Lake	PERM		PERM	94-11-033
Shannon Reservoir	EMER		PERM	94-11-034
Skagit River	PROP		PERM	94-11-035
	PERM		PERM	94-11-036
	PROP		PERM	94-11-037
Skamokawa Creek	PROP		PERM	94-11-038
	PROP		PERM	94-11-039
			PERM	94-11-040
			PERM	94-11-041

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

	PERM	94-11-042	salmon		
	PERM	94-11-043	area closures	EMER	94-01-012
	PERM	94-11-044	shellfish		
	PERM	94-11-045	rules and definitions	PROP	94-03-105
	PREP	94-13-188	Shellfish		
	PROP	94-14-089	pots, setting requirements	EMER	94-05-002
Hunting seasons					
dear and bear, 1994-97	PERM	94-11-046	FOREST PRACTICES APPEALS BOARD		
deer and elk, 1994-95	PERM	94-11-051	Appeals	EMER	94-07-062
	PREP	94-13-187		PROP	94-07-097
	PROP	94-14-088		PERM	94-12-030
elk, 1994-97	PERM	94-11-048	FOREST PRACTICES BOARD		
	EMER	94-11-078	Enforcement	PERM	94-01-134
	PREP	94-13-186	Marbled murrelet		
lynx	PREP	94-13-189	critical wildlife habitats	EMER	94-07-053
	PROP	94-14-087		PROP	94-12-076
hunting hours and small				EMER	94-13-065
game seasons, 1994-97	PERM	94-11-047		PREP	94-13-066
migratory waterfowl, 1994-95	PREP	94-13-191		MISC	94-01-133
	PROP	94-14-092	Meetings	MISC	94-13-211
special closures and firearm					
restriction areas	PERM	94-11-049	Penalties		
	EMER	94-12-068	assessment and enforcement	PERM	94-01-134
	EMER	94-12-069	Spotted owl habitat protection	EMER	94-05-046
special hunting and trapping			Wetlands		
seasons permits	PERM	94-11-030	forested bogs and fens	EMER	94-01-124
special species, 1994-95	PERM	94-11-050		PROP	94-09-029
Hydraulics projects				EMER	94-09-030
regulations	PROP	94-11-126	GAMBLING COMMISSION		
Lynx pelt sealing and collection of			Amusement games		
biological information	PROP	94-14-090	approval and authorization	PERM	94-01-036
Trapping			prizes	PREP	94-13-109
seasons and regulations, 1994-96	PREP	94-13-190	Bingo		
	PROP	94-14-091	disposable bingo cards	PERM	94-01-034
special hunting and trapping			electronic bingo card daubers	PROP	94-10-005
seasons permits	PERM	94-11-030		PROP	94-11-094
			equipment requirements	PERM	94-01-033
FISHERIES, DEPARTMENT OF			game conduct	PREP	94-13-111
(See also FISH AND WILDLIFE,				PROP	94-13-113
DEPARTMENT OF)			sale of bingo cards	PROP	94-10-005
Commercial				PROP	94-13-101
baítfish			Card games		
areas and seasons	EMER	94-04-047	authorized types	PROP	94-10-006
bottomfish				PERM	94-13-098
coastal bottomfish catch limits	EMER	94-02-039	cardrooms		
	EMER	94-05-003	fees	EMER	94-13-100
licenses	PERM	94-01-001		PREP	94-13-108
	EMER	94-02-040	house dealers	PROP	94-13-112
marine fish				PROP	94-10-006
rules and definitions	PROP	94-03-106	wager limits	PERM	94-13-098
salmon			Charitable or nonprofit organizations	PROP	94-10-006
Columbia River above Bonneville,			qualifications, procedures, and		
seasons	EMER	94-04-048	responsibilities	PERM	94-01-035
Columbia River below Bonneville,	EMER	94-06-042	Firearms as prizes	PROP	94-10-005
seasons				PERM	94-13-099
sea urchins			Meetings	MISC	94-01-037
area and seasons	EMER	94-01-109		MISC	94-04-099
	EMER	94-01-152		MISC	94-05-047
	EMER	94-03-063		MISC	94-07-099
	EMER	94-05-055			
shellfish			Nonprofit or charitable organizations		
rules and definitions	PROP	94-03-106	qualification, procedures, and		
shrimp			responsibilities	PERM	94-01-035
Puget Sound	PROP	94-03-098	Prohibited activities	PROP	94-10-005
sturgeon				PERM	94-13-099
Columbia River			Punchboards and pull tabs		
above Bonneville, seasons	EMER	94-02-010	prizes, deletion of reference	PREP	94-13-110
vessel designation	EMER	94-02-040	retention requirements	PERM	94-01-032
vessel registration	PERM	94-01-001	Rules coordinator	MISC	94-07-100
Personal use			Rules, housekeeping changes	PROP	94-04-024
food fish				PROP	94-07-083
rules and definitions	PROP	94-03-105		PERM	94-07-084
licenses	PERM	94-01-001		PERM	94-11-095
	EMER	94-02-040			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

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
 MISC 94-12-020
 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
 Families, youth, and justice,
 council on MISC **94-14-003**
 Family policy council advisory
 committee MISC 94-12-013
 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
 Rule making by agencies, procedures MISC 94-13-057
 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

Discrimination **PREP 94-14-097**
PREP 94-14-098
 Grievances **PREP 94-14-097**
PREP 94-14-098
 Meetings MISC 94-02-024
 Sexual harassment **PREP 94-14-098**

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
EMER 94-14-017
EMER 94-14-017
 disenrollment EMER 94-06-032
 eligibility PROP 94-07-075
EMER 94-14-017
 enrollment EMER 94-06-032
 PROP 94-07-075
EMER 94-14-017
 hearings and grievances PROP 94-06-032
 PROP 94-07-075
EMER 94-14-017
 premiums and copayment **EMER 94-14-017**
 Definitions **EMER 94-14-017**
 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
 MISC 94-13-092

HEALTH CARE FACILITIES AUTHORITY

Health care facilities, definition
 and categorization PROP 94-12-021
 Nursing homes
 financial assistance criteria PROP 94-12-022

HEALTH SERVICES COMMISSION

Benefits and premium payments,
 coordination PREP 94-13-169
 Border individuals or employers PREP 94-13-167
 Certification of plans PREP 94-13-205
 Community-rated maximum premium PREP 94-13-172
 Competitive oversight and antitrust
 immunity PROP 94-06-060
 PROP 94-12-078
 PROP 94-12-081
 PROP 94-13-208
 PREP 94-13-170
 PREP 94-13-174
 Experimental and investigative services
 Health care data system
 Managed competition and antitrust
 immunity PROP 94-06-059
 Medical risk adjustment PREP 94-13-171
 Meetings MISC 94-04-129
 MISC 94-07-094
MISC 94-14-099
 Organization and operation PROP 94-01-141
 PERM 94-04-046
 Payroll deductions PREP 94-13-207
 Powers and duties PREP 94-13-205
 Provider selection, termination, and
 dispute resolution PROP 94-10-085
 PROP 94-12-079
 PREP 94-13-168
 Purchasing cooperatives PREP 94-13-205
 Registration of plans MISC 94-01-070
 Rules coordinator MISC 94-09-013
 Seasonal employment PREP 94-13-166
 Supplemental benefits PREP 94-13-173
 Supplier certification standards PROP 94-12-080
 Uniform benefits package PROP 94-11-109
 PREP 94-13-175
 PREP 94-13-176
 PREP 94-13-204
 PREP 94-13-206

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Waivers from participation conscience or religion	PREP	94-13-165	patient discharge reporting	PROP	94-09-007
				PERM	94-12-090
HEALTH, DEPARTMENT OF			private psychiatric and alcoholism hospitals, requirements	PREP	94-13-177
Abortion facilities			public records	PROP	94-09-026
authority of department to regulate	PERM	94-04-083		PERM	94-12-089
Adjudicative proceedings			Kidney centers	PERM	94-05-052
disciplinary boards	PERM	94-04-078	Laboratories		
	PROP	94-13-087	medical test sites, fees	PROP	94-11-012
secretary programs and professions	PERM	94-04-079	Massage, board of		
	PROP	94-13-088	apprenticeship programs	PROP	94-06-045
Boarding homes			continuing education	PROP	94-01-055
nursing care for residents	PERM	94-01-058		PROP	94-05-080
standards, revised provisions	PROP	94-08-040	meetings	PERM	94-13-181
	PERM	94-13-180	licensure	PROP	94-06-045
Chiropractic disciplinary board			examination	PROP	94-05-080
adjudicative proceedings	PROP	94-03-053		PERM	94-13-181
	PERM	94-08-053	initial application	PROP	94-06-045
cooperation with investigation	PROP	94-11-080	training	PROP	94-06-045
future care contracts	PROP	94-02-016		PREP	94-13-178
licenses			without examination	PROP	94-05-080
renewal form	PROP	94-11-080		PERM	94-13-181
meetings	MISC	94-04-110	Medical disciplinary board		
recordkeeping requirements	PROP	94-11-080	adjudicative proceedings	PROP	94-07-011
scope of practice	PROP	94-11-080	Medical examiners, board of		
Dental disciplinary board			examinations		
adjudicative proceedings	PROP	94-03-045	reciprocity or waiver	PROP	94-08-095
meetings	MISC	94-04-074	scores	PROP	94-08-095
Dental examiners, board of			physician assistants		
adjudicative proceedings	PROP	94-03-044	alternate sponsoring or supervising		
	PERM	94-08-011	physicians, relationship with	PROP	94-08-094
	PERM	94-12-038	Medical test sites		
dentist fees	PERM	94-02-058	fees	PROP	94-11-012
examinations, eligibility and application	PROP	94-06-046	licensure	PROP	94-14-039
	PERM	94-11-088		PROP	94-14-039
meetings	MISC	94-04-072	Nursing, board of		
temporary practice permits	PREP	94-13-005	advanced registered nurse practitioners		
Dental hygienists			education requirements	PROP	94-10-056
education requirements	PROP	94-01-056		PROP	94-11-079
	PERM	94-05-053	scope of practice	PROP	94-10-056
licenses				PROP	94-11-079
fees	PERM	94-02-059	registered nurses		
reinstatement of expired license	PERM	94-04-005	continuing education	PROP	94-10-057
meetings	MISC	94-04-073	licensure	PROP	94-10-057
Health statistics, center for			computer adaptive testing	PROP	94-01-132
pregnancy terminations, reporting	PERM	94-04-083		PERM	94-07-012
Hearings aids, fitters and dispensers			Nursing home administrators, board of		
licenses			administrator-in-training program	PREP	94-14-031
inactive status	PERM	94-08-038	fees	PROP	94-05-065
trainees, standards of training and supervision	PROP	94-08-037	meetings	PERM	94-09-006
	PERM	94-11-108		MISC	94-03-054
				MISC	94-10-011
HIV			Occupational therapy practice board		
health insurance eligibility	PROP	94-01-057	AIDS education and training	PROP	94-10-059
	PERM	94-06-048	education programs	PROP	94-10-059
Home care	PROP	94-10-046	licenses	PROP	94-10-059
Home health agencies			On-site sewage systems		
deemed status	PROP	94-10-047	requirements	PERM	94-09-025
licenses	PROP	94-10-047	Opticians		
policies and procedures	PROP	94-10-047	contact lenses		
volunteers	PROP	94-10-047	fitting and dispensing	PROP	94-02-057
Hospice				PERM	94-06-047
deemed status	PROP	94-10-045	records retention	PROP	94-02-057
licenses	PROP	94-10-045		PROP	94-06-047
policies and procedures	PROP	94-10-045	fees	PROP	94-05-032
volunteers	PROP	94-10-045		PERM	94-08-078
Hospitals			Optometry board		
budgets and accounting	PROP	94-09-026	continuing education	PERM	94-04-041
	PERM	94-12-089	prescriptions for contact		
data collection and reporting	PROP	94-09-026	lens fitting	PROP	94-13-086
	PERM	94-12-089	scope of practice	MISC	94-14-066
fee schedules	PROP	94-09-026	sexual misconduct	PERM	94-04-041
	PERM	94-12-089	Osteopathic medicine and surgery, board of		
			adjudicative proceedings	PROP	94-11-093

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

examinations	PROP	94-11-093	Psychology, examining board of		
physicians assistants			continuing education	PROP	94-08-039
licensure	PROP	94-11-093		PERM	94-12-039
prescriptions	PROP	94-11-093	licensure		
Pharmacy, board of			applications	PROP	94-08-039
adjudicative proceedings	PROP	94-11-089		PERM	94-12-039
	PROP	94-13-053	examination	PROP	94-08-039
compounding practices	PROP	94-02-079		EMER	94-09-024
	PERM	94-08-101		PERM	94-12-039
continuing education	PROP	94-11-092	prerequisites	PROP	94-08-039
controlled substances				PERM	94-12-039
destruction of schedule II			Quality improvement program for health		
substances in nursing homes	PERM	94-02-077	care facilities and providers	PROP	94-09-042
list corrections and additions	PROP	94-02-089	Radiologic protection, division of		
	PROP	94-04-111	environmental radioactivity		
	PERM	94-07-105	cleanup standards	PROP	94-09-041
	PERM	94-08-098	radiation levels	PROP	94-09-041
ephedrine prescription restrictions	PROP	94-02-078	fees	PROP	94-01-142
	PERM	94-08-100		PROP	94-07-107
examinations	PROP	94-04-113		PROP	94-07-108
	PERM	94-08-099		PERM	94-11-010
fees	PERM	94-05-036	radiation protection standards	PERM	94-11-011
good compounding practices	PROP	94-02-079		PROP	94-01-059
	PERM	94-08-101		PERM	94-01-073
hospital pharmacy standards	PROP	94-11-090		PROP	94-01-142
licenses				PROP	94-06-016
renewal notices	PROP	94-08-096		PERM	94-06-017
	PERM	94-14-038	radioactive air emissions,		
requirements	PREP	94-14-109	regulations	PERM	94-07-010
patient medication record systems	PROP	94-11-091	Radiologic technology advisory committee		
pharmacy assistants			meetings	MISC	94-04-103
specialized functions	PROP	94-01-088	Sewage systems, on-site		
	PROP	94-04-112	requirements	PERM	94-09-025
	PERM	94-08-097	Sex offender treatment providers		
procedural rules	PROP	94-11-089	certification	PROP	94-09-027
	PROP	94-13-053		PERM	94-13-179
reciprocity	PROP	94-04-113	definitions	PROP	94-09-027
	PERM	94-08-099		PERM	94-13-179
recordkeeping requirements	PROP	94-11-091	education requirements	PROP	94-09-027
wildlife, department of				PERM	94-13-179
approved legend drug use	PERM	94-02-060	fees	PROP	94-09-027
Physical therapy, board of				PERM	94-13-179
adjudicative proceedings	PERM	94-05-014	professional conduct		
licenses			and standards	PROP	94-09-027
applicants	PERM	94-05-014		PERM	94-13-179
continuing competency	PERM	94-05-014	treatment standards	PROP	94-09-027
endorsement, licensure by	PERM	94-05-014		PERM	94-13-179
interim permits	PERM	94-05-014	Shellfish sanitation control	PROP	94-12-087
meetings	MISC	94-02-056		PROP	94-12-088
Physician assistants			Transient accommodations	PROP	94-10-058
alternate sponsoring or supervising			Tuberculosis control	PROP	94-12-048
physicians, relationship with	PROP	94-08-094		PROP	94-14-081
Podiatric medical board			Uniform Disciplinary Act		
adjudicative proceedings	PROP	94-05-081	model procedural rules for boards	PERM	94-04-078
	PERM	94-09-008	secretary programs and professions,		
	PERM	94-05-051	adjudicative proceedings	PERM	94-04-079
continuing education	PERM	94-05-051	Veterinary medication clerks		
licensure eligibility	PERM	94-05-051	fees	PROP	94-08-076
patient records	PERM	94-05-051		EMER	94-08-077
substance abuse monitoring program	PROP	94-08-079	scope of functions	EMER	94-08-051
	PERM	94-14-082		PROP	94-08-052
unlicensed persons, authorized acts	PERM	94-05-051	supervision	EMER	94-08-051
Pools				PROP	94-08-052
construction and operating permits,			Vision care practitioners		
fees	PROP	94-07-121	Vision Care Consumer Assistance Act,		
	PERM	94-11-056	implementation	PROP	94-10-026
Practical nursing, board of				PROP	94-14-080
fees	PROP	94-05-035	training and education	EMER	94-08-051
	PERM	94-08-102		PROP	94-08-052
licensure			Water		
examination	PROP	94-05-033	drinking water certification	PREP	94-13-004
	PERM	94-08-050	group A public water systems	PROP	94-08-075
qualifications	PROP	94-05-033		PERM	94-14-001
	PERM	94-08-050	group B public water systems	PROP	94-06-008
student records	PROP	94-05-033		PERM	94-14-002
	PERM	94-08-050			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

satellite system management agencies	PROP	94-13-085	INFORMATION SERVICES, DEPARTMENT OF Information services board meetings	MISC	94-12-040
water works operator certification	PERM	94-04-004			
HIGHER EDUCATION COORDINATING BOARD			INSURANCE COMMISSIONER, OFFICE OF		
Award for excellence in education program	PROP	94-09-061	Agents, solicitors, and adjusters continuing education	PROP	94-11-100
Degree Authorization Act administration and governance	PERM	94-14-008	licenses	PERM	94-14-033
Displaced homemaker program	PROP	94-06-018		PROP	94-11-100
Meetings	PROP	94-10-001		PERM	94-14-033
	MISC	94-03-049	Annuitants	PROP	94-05-057
	MISC	94-09-044	Audited financial statements	PROP	94-01-192
	MISC	94-10-052		PERM	94-04-045
Running start program	PROP	94-01-112	Data reporting requirements	PREP	94-14-032
	PROP	94-04-093	Financial statements	PROP	94-01-192
	PERM	94-14-064		PERM	94-04-045
State work-study program	PROP	94-09-058	Health care service contractors custodial care benefits	PROP	94-05-056
	PERM	94-14-006	participating provider contracts	PROP	94-01-075
Washington scholars program	PROP	94-09-060	preexisting condition limitations, restrictions	PROP	94-04-125
	PERM	94-14-007		PERM	94-08-081
HIGHER EDUCATION FACILITIES AUTHORITY			Health insurance coordination of benefits	PROP	94-11-122
Organization and operation	PROP	94-12-092	custodial care benefits	PROP	94-05-056
Underwriters, selection	PROP	94-12-092	health plan providers		
HIGHLINE COMMUNITY COLLEGE			dispute resolution	PROP	94-10-077
Meetings	MISC	94-04-071	selection	PROP	94-10-077
	MISC	94-13-115	termination	PROP	94-10-077
HISPANIC AFFAIRS, COMMISSION ON			off-label drugs	PROP	94-05-070
Meetings	MISC	94-04-127	preexisting condition limitations, restrictions	PROP	94-04-125
	MISC	94-08-003		PERM	94-08-081
	MISC	94-09-063		PROP	94-11-082
	MISC	94-10-016		PERM	94-13-216
HORSE RACING COMMISSION			reinsurance agreements	PROP	94-05-089
Association officials and employees duties	PROP	94-09-003		PROP	94-08-013
testing	PROP	94-09-003		PROP	94-10-024
Definitions	PROP	94-09-003		PROP	94-12-077
Exacta rules	PROP	94-05-076	Health insurance reform short term coordination of benefits	PROP	94-11-122
Licenses			form modification	PROP	94-02-065
duration	PERM	94-04-002		PROP	94-03-048
Medication testing program	PERM	94-04-002		PROP	94-03-085
Practice and procedure	PROP	94-09-003	portability	PROP	94-02-065
Quinella rules	PROP	94-05-077		PROP	94-03-048
Race results, transmission	PERM	94-04-003		EMER	94-03-084
Racing rules	PROP	94-09-003		PROP	94-03-085
Trifecta rules	PROP	94-05-075		PROP	94-04-126
				PROP	94-08-006
				PERM	94-08-060
HUMAN RIGHTS COMMISSION			rate limitations	PROP	94-02-065
Disability discrimination	PROP	94-04-087		PROP	94-03-048
Meetings	MISC	94-01-119		PROP	94-03-085
	MISC	94-01-120	renewability	PROP	94-02-065
	MISC	94-03-083		PROP	94-03-048
	MISC	94-05-087		EMER	94-03-084
	MISC	94-06-002		PROP	94-03-085
	MISC	94-07-118	unfair practices	PROP	94-02-065
	MISC	94-09-037	Health maintenance organizations custodial care benefits	PROP	94-05-056
	MISC	94-11-052	participating provider contracts	PROP	94-01-075
	MISC	94-13-154	preexisting condition limitations, restrictions	PROP	94-04-125
Preemployment inquiries	PROP	94-04-087		PERM	94-08-081
Pregnancy discrimination	PROP	94-04-087			
Sex discrimination	PROP	94-04-087			
HYDRAULIC APPEALS BOARD			Life insurance accelerated benefits	PROP	94-05-071
Rules of procedure	EMER	94-07-059	reinsurance agreements	PROP	94-05-089
	PROP	94-07-096		PROP	94-08-013
	PERM	94-12-029		PROP	94-10-024
				PROP	94-12-077
INDETERMINATE SENTENCE REVIEW BOARD					
Rules coordinator	MISC	94-02-067			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Long-term care insurance			ski lift area facilities		
home health care	PROP	94-09-050	and operations	PROP	94-11-124
	PROP	94-11-096	telecommunications	PROP	94-10-010
	PROP	94-13-217	Workers' compensation		
	PERM	94-14-100	classifications	PROP	94-07-128
inflation protection	PROP	94-09-050		PROP	94-07-129
	PROP	94-11-096		PERM	94-12-051
	PROP	94-13-217		PERM	94-12-063
	PERM	94-14-100	general	PROP	94-01-186
preproposol comments	PROP	94-09-048	health care providers' reimbursement	PERM	94-02-045
standards	PROP	94-09-050		PERM	94-03-008
	PROP	94-11-096			
	PROP	94-13-217	logging or tree thinning,		
	PERM	94-14-100	mechanized operations	PROP	94-06-055
Malpractice insurance				PERM	94-12-051
midwifery and birthing centers	PERM	94-02-053	medical aid rules and fee schedule	PROP	94-07-126
Midwifery and birthing centers				PERM	94-14-044
malpractice joint underwriting			rates and rating system	PROP	94-07-127
authority	PERM	94-02-053		PERM	94-12-050
	PROP	94-09-049		PREP	94-14-105
	PERM	94-13-006	reforestation industry, reporting	PREP	94-14-104
	PREP	94-14-032	respiratory impairment, evaluation	PERM	94-03-073
Reporting requirements			self-insurance		
INTEREST RATES			accident reports and claims	PROP	94-12-096
(See inside front cover)			admission and termination of members	PROP	94-12-096
			assessments	PROP	94-12-096
INVESTMENT BOARD			certification	PROP	94-03-006
Meetings	MISC	94-04-019		PERM	94-05-042
			claims	PROP	94-12-096
JUDICIAL CONDUCT, COMMISSION ON			employee rights	PROP	94-03-006
Meetings	MISC	94-01-050		PERM	94-05-042
	MISC	94-01-051	surety	PROP	94-03-006
	MISC	94-11-076		PERM	94-05-042
			students volunteers	PREP	94-14-105
LABOR AND INDUSTRIES, DEPARTMENT OF					
Boiler rules, board of			LAKE WASHINGTON TECHNICAL COLLEGE		
meetings	MISC	94-01-015	Meetings	MISC	94-01-052
small electric boilers,				MISC	94-03-016
exemption from rules	EMER	94-04-006	LEGAL FOUNDATION OF WASHINGTON		
	PROP	94-05-072	Meetings	MISC	94-04-008
Crime victims compensation				MISC	94-07-057
mental health treatment fees and rules	PERM	94-02-015	LICENSING, DEPARTMENT OF		
Electrical board			Appraisers		
meetings	MISC	94-02-055	allowed credits for experience	PROP	94-12-041
Electrical installations			Cemetery board		
wiring and apparatus	PERM	94-01-005	fees	PERM	94-01-117
Electricians			Escrow commission		
journeyman electricians			escrow officer, responsibilities	PERM	94-04-050
certificate of competency	PERM	94-01-005	organization and operation	PERM	94-04-050
Fees	PERM	94-01-100	meetings	MISC	94-02-018
Medical and mental health treatment			Hulk haulers		
fees and rules	PERM	94-02-015	licenses		
Occupational health standards			applications	PROP	94-07-037
general	PROP	94-07-085		PERM	94-12-052
	PERM	94-07-086	requirements	PROP	94-07-037
	PROP	94-10-010		PERM	94-12-052
	PROP	94-11-124	Landscape architects		
tobacco smoke in offices	PERM	94-07-086	fees	PROP	94-01-047
	MISC	94-14-103		PERM	94-04-044
Prevailing wages			licenses		
fees for filing statements	PERM	94-01-100	examination	PROP	94-01-047
Safety and health standards				PERM	94-04-044
agriculture	PROP	94-01-186	renewal	PROP	94-01-047
	EMER	94-06-044		PERM	94-04-044
	PERM	94-06-068	Model traffic ordinance	PERM	94-01-082
	PROP	94-10-007		PROP	94-09-002
general	PROP	94-10-010	Motor vehicles		
Safety standards			driver licenses and identicards	EMER	94-14-040
agriculture	PROP	94-12-095		PROP	94-14-041
	EMER	94-14-027	driving under the influence		
commercial diving operations	PROP	94-10-010	withholding ownership documents	PROP	94-08-057
construction	PROP	94-10-010		EMER	94-14-040
	PROP	94-11-124		PROP	94-14-041
electrical workers	PROP	94-11-124			
firefighters	PROP	94-11-124			
logging operations	PROP	94-11-124			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

fleet vehicles			Private clubs		
reciprocity and proration	PROP	94-02-025	advertising	PROP	94-02-014
	PERM	94-13-012		PERM	94-06-022
model traffic ordinance	PERM	94-01-082	Public records, availability	PERM	94-03-060
	PROP	94-09-002	Purpose	PROP	94-11-085
model year, determination	PROP	94-13-123		PERM	94-14-021
reckless driving, vehicular homicide, and assault	EMER	94-14-040	Ships chandlers		
	PROP	94-14-041	definition	PROP	94-05-095
ride-sharing vehicles	PROP	94-13-123		PERM	94-08-032
size, weight, and load	EMER	94-14-040	purchase and receipt of beer and wine	PROP	94-05-095
	PROP	94-14-041		PERM	94-08-032
special fuel, tax exemption and refunds	PROP	94-02-075	sales limits	PROP	94-10-003
	PROP	94-02-076		PERM	94-13-126
	PERM	94-11-029	Tobacco products		
	PERM	94-11-055	sales	PROP	94-08-010
title and registration	EMER	94-14-040		PROP	94-08-023
	PROP	94-14-041	Wineries		
title and registration advisory committee	MISC	94-01-111	retail sale of wine on premises	PROP	94-02-013
trip permits	PROP	94-13-028		PROP	94-06-021
unauthorized vehicles, procedures for taking custody of	PROP	94-04-017	retailers' winery license	PROP	94-02-013
	PERM	94-08-025		PROP	94-06-021
	PROP	94-07-036			
unlicensed vehicle trip permits	PROP	94-09-018	LOTTERY COMMISSION		
Private security guards	PROP	94-11-026	<u>Instant game number 114 - Wildcard</u>		
licensing fees			criteria	PERM	94-03-019
Real estate appraisers			definitions	PERM	94-03-019
residential classification	PERM	94-01-002	ticket validation	PERM	94-03-019
Real estate commission			<u>Instant game number 115 - Cash Roulette</u>		
meetings	MISC	94-02-018	criteria	PERM	94-03-019
Title and registration advisory			definitions	PERM	94-03-019
committee			ticket validation	PERM	94-03-019
meetings	MISC	94-06-069	<u>Instant game number 116 - Fortune</u>		
	MISC	94-09-053	criteria	PERM	94-03-019
	MISC	94-12-047	definitions	PERM	94-03-019
			ticket validation	PERM	94-03-019
Vessels			<u>Instant game number 117 - Cash Crop</u>		
fees	PROP	94-03-018	criteria	PERM	94-03-019
registration and certificate of title	PROP	94-03-018		PROP	94-07-116
			definitions	PERM	94-11-027
				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
LIQUOR CONTROL BOARD			<u>Instant game number 118 - Aces Wild</u>		
Agents			criteria	PROP	94-03-099
limited authority	PROP	94-11-087		PERM	94-07-029
	PERM	94-14-023		PROP	94-12-082
Booths	PROP	94-07-125	definitions	PROP	94-03-099
	PERM	94-10-035		PERM	94-07-029
Breweries				PROP	94-12-082
retail sale of beer on premises	PROP	94-02-013		PROP	94-03-099
	PROP	94-06-021	ticket validation	PROP	94-12-082
retailers' brewery license	PROP	94-02-013		PERM	94-07-029
	PROP	94-06-021		PROP	94-12-082
Cocktail lounge declassification, Sunday dining events	PROP	94-10-004		PROP	94-03-099
	PERM	94-13-127		PERM	94-07-029
				PROP	94-12-082
Licensees			<u>Instant game number 119 - Big Bucks</u>		
consumption of alcohol during pregnancy warning signs	PROP	94-10-066	criteria	PROP	94-03-099
	PREP	94-13-124		PERM	94-07-029
	PROP	94-13-125	definitions	PROP	94-03-099
fetal alcohol syndrome or fetal alcohol effect warning signs	PROP	94-05-094		PERM	94-07-029
	PROP	94-08-029	ticket validation	PROP	94-03-099
	PREP	94-13-124		PERM	94-07-029
hours of operation	PROP	94-05-096	<u>Instant game number 119 - Lots of Bucks</u>		
	PERM	94-08-031	criteria	PROP	94-12-082
liquor possession by person under the influence prohibited	PROP	94-05-093	definitions	PROP	94-12-082
	PERM	94-08-030	ticket validation	PROP	94-12-082
private wine shippers' licenses fees	PROP	94-07-124	<u>Instant game number 120 - Lucky Deal</u>		
	PERM	94-10-034	criteria	PROP	94-03-099
samples of unpasteurized beer	PROP	94-11-086		PERM	94-07-029
	PERM	94-14-022	definitions	PROP	94-12-082
split case handling fee	PROP	94-10-067		PERM	94-07-029
	PERM	94-13-128		PROP	94-12-082

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

ticket validation	PROP 94-03-099	effective date	MISC 94-07-028
	PERM 94-07-029	Prizes	
	PROP 94-12-082	payment	PROP 94-12-082
<u>Instant game number 121 - Hog Mania</u>		Retailers	
criteria	PROP 94-03-099	effective date	MISC 94-07-028
	PERM 94-07-029	license termination	PROP 94-07-116
definitions	PROP 94-03-099		PERM 94-11-027
	PERM 94-07-029	obligations	PERM 94-03-020
ticket validation	PROP 94-03-099		PROP 94-07-116
	PERM 94-07-029		PERM 94-11-027
<u>Instant game number 122 - High Card</u>		procedures	PERM 94-03-020
criteria	PROP 94-07-116	retailer settlement	PERM 94-03-020
	PERM 94-11-027		
	PREP 94-14-058		
definitions	PROP 94-07-116	MARINE EMPLOYEES' COMMISSION	
	PERM 94-11-027	Meetings	MISC 94-07-002
ticket validation	PROP 94-07-116	MARINE OVERSIGHT BOARD	
	PERM 94-11-027	Meetings	MISC 94-02-084
<u>Instant game number 123 - Holiday Cash</u>			MISC 94-09-033
criteria	PROP 94-07-116		MISC 94-13-106
	PERM 94-11-027		
definitions	PROP 94-07-116	MARINE SAFETY, OFFICE OF	
	PERM 94-11-027	Bunkering standards	MISC 94-09-056
ticket validation	PROP 94-07-116		PROP 94-12-024
	PERM 94-11-027		PROP 94-12-093
<u>Instant game number 124 - Queen of Hearts</u>		Oil spill prevention plan	PROP 94-12-025
criteria	PROP 94-07-116	Regional marine safety committees	
	PERM 94-11-027	meetings	MISC 94-01-110
definitions	PROP 94-07-116		MISC 94-07-039
	PERM 94-11-027	Rules coordinator	MISC 94-02-021
ticket validation	PROP 94-07-116		
	PERM 94-11-027	MARITIME COMMISSION	
<u>Instant game number 125 - Windfall</u>		Meetings	MISC 94-01-027
criteria	PROP 94-07-116		
	PERM 94-11-027	MINORITY AND WOMEN'S BUSINESS	
definitions	PROP 94-07-116	ENTERPRISES, OFFICE OF	
	PERM 94-11-027	Agencies and educational institutions	
ticket validation	PROP 94-07-116	plans, contents	PROP 94-01-164
	PERM 94-11-027		PROP 94-08-110
<u>Instant game number 126 - Megamoney II</u>			PERM 94-11-119
criteria	PROP 94-07-116	responsibilities	PROP 94-08-109
	PERM 94-11-027		PERM 94-11-118
definitions	PROP 94-07-116	Annual goals for participation	PROP 94-01-127
	PERM 94-11-027		PERM 94-03-068
ticket validation	PROP 94-07-116		PERM 94-07-064
	PERM 94-11-027	Certification	
<u>Instant game number 127 - 7-11-21</u>		applications	PROP 94-08-108
criteria	PROP 94-12-082		PERM 94-11-114
definitions	PROP 94-12-082	fees	PROP 94-08-108
ticket validation	PROP 94-12-082		PERM 94-11-115
<u>Instant game number 128 - \$2 Big Kahuna</u>		Contractors	
criteria	PROP 94-12-082	violations and penalties	PROP 94-08-107
definitions	PROP 94-12-082		PERM 94-11-117
ticket validation	PROP 94-12-082	Fees	PROP 94-01-090
<u>Instant game number 129 - Beat the Dealer</u>			PROP 94-01-187
criteria	PROP 94-12-082		EMER 94-01-188
definitions	PROP 94-12-082		PERM 94-11-113
ticket validation	PROP 94-12-082	Subcontractor, definition	PROP 94-08-107
			PERM 94-11-116
<u>Instant game number 130 - Moolah Moolah</u>			
criteria	PROP 94-12-082	MULTIMODAL TRANSPORTATION PROGRAMS	
definitions	PROP 94-12-082	AND PROJECTS SELECTION COMMITTEE	
ticket validation	PROP 94-12-082	(See GOVERNOR, OFFICE OF THE)	
Instant games		NATURAL RESOURCES, DEPARTMENT OF	
criteria	PERM 94-03-020	Burning permits	
effective date	MISC 94-07-028	fees	PROP 94-08-093
official end	PERM 94-03-020		PERM 94-14-063
validation	PREP 94-14-058	Forest closures	
Lottery licenses, ineligibility	PREP 94-14-058	closed season	EMER 94-09-020
Lotto		extra fire hazard areas	EMER 94-13-095
prizes	PROP 94-03-099	Forest fire advisory board	
	PERM 94-07-029	meetings	MISC 94-08-012
retailer settlement	PERM 94-03-020		
	MISC 94-07-028		
On-line games			
criteria	PERM 94-03-020		

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Forest practices board (see FOREST PRACTICES BOARD)			Paragliders aircraft prohibition, exemption	PERM	94-01-087
Natural heritage advisory council meetings	MISC	94-03-070	Recreational vessels operation and equipment	PROP	94-12-065
Natural resources, board of meetings	MISC	94-09-059	Senior citizens, off-season pass	PROP	94-03-097
	MISC	94-12-031		PROP	94-06-010
	MISC	94-12-091	Tree removal in state parks	PERM	94-08-036
	MISC	94-13-073		PROP	94-06-049
Puget Sound dredged material disposal site use fees	EMER	94-13-056		PERM	94-10-012
	PREP	94-14-009	PENINSULA COLLEGE		
Surface Mining Act mine reclamation	PROP	94-09-062	Meetings	MISC	94-01-185
	PERM	94-14-051	Rules coordinator	MISC	94-05-098
Survey monuments removal or destruction	PROP	94-01-022		MISC	94-04-026
	PERM	94-06-034	PERSONNEL APPEALS BOARD		
			Practice and procedures	PREP	94-13-198
NORTHWEST AIR POLLUTION AUTHORITY			PERSONNEL, DEPARTMENT OF		
Air contaminant sources reporting	PERM	94-01-108	Career executive program transition into Washington management service	PROP	94-01-125
Fees	PERM	94-01-108		PROP	94-09-065
Operating permits	PERM	94-01-108	Personnel resources board (see PERSONNEL RESOURCES BOARD)		
NOXIOUS WEED CONTROL BOARD (See AGRICULTURE, DEPARTMENT OF)			Rules coordinator	MISC	94-01-160
				MISC	94-06-001
OLYMPIC COLLEGE			Washington management service affirmative action	PROP	94-06-064
Meetings	MISC	94-01-122		PERM	94-09-012
	MISC	94-01-123	career executive program, transition from	PROP	94-01-125
	MISC	94-02-085		PROP	94-09-065
	MISC	94-07-046	establishment	PERM	94-12-055
OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR				PROP	94-01-048
Housekeeping rules revisions	PROP	94-12-010		PERM	94-01-126
	PROP	94-13-196		EMER	94-03-069
Meetings	MISC	94-05-099	phase in agencies	PROP	94-11-071
	MISC	94-06-052		PROP	94-06-064
	MISC	94-07-069	reduction in force	PERM	94-09-012
	MISC	94-13-134		PROP	94-09-065
Rules coordinator	MISC	94-02-062	reversion	PERM	94-09-065
	MISC	94-06-006		PROP	94-06-064
			review period	PERM	94-09-012
PARKS AND RECREATION COMMISSION			salary adjustments	PROP	94-09-065
Alcohol possession or consumption in parks	PROP	94-10-069		PERM	94-12-055
	PERM	94-13-081	transition into	PROP	94-06-064
Aircraft paragliders, prohibition exemption	PERM	94-01-087		PERM	94-09-012
Boating safety program local government programs	PROP	94-01-149	PERSONNEL RESOURCES BOARD	PROP	94-09-065
	PERM	94-04-076	Affirmative action	PERM	94-12-055
Camping facilities fees	PROP	94-03-097		EMER	94-14-072
	PROP	94-06-010			
	PERM	94-08-036	Appeals		
	PROP	94-10-048	Classification plan		
	PERM	94-13-080			
Clean vessel funding program	PROP	94-10-070	Demotion		
	PERM	94-13-082	Dismissal		
Commercial solicitation in parks	PROP	94-12-064	Employee training and development		
Day use fees	PROP	94-03-097			
	PROP	94-06-010	Exemptions, civil service law		
	PERM	94-08-036			
	EMER	94-09-009	Filing of papers		
Film permit application, fee	PROP	94-03-089			
	PROP	94-06-020	Higher education institutions and related boards, civil service law exemptions	PERM	94-02-031
	PERM	94-08-005	Layoff or separation	PROP	94-02-034
Fort Worden fees	PROP	94-01-150			
	PERM	94-04-075			
Meetings	MISC	94-01-148			

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Operations	PERM 94-02-032	identification of affiliated entities	EMER 94-07-001
	PROP 94-02-035		PROP 94-07-035
Position allocations and reallocations	PROP 94-02-034	limitations	PERM 94-11-016
Public records, availability	PERM 94-02-032		PROP 94-07-035
	PROP 94-02-035		PROP 94-07-088
Reduction in force register designation transition pool	EMER 94-04-085		PROP 94-07-089
Register designation certification	PROP 94-12-056	personal use, standard	PROP 94-07-142
			PERM 94-11-016
composition and ranking	PROP 94-06-066		PERM 94-11-018
	PERM 94-10-008	pledges	PROP 94-03-087
reduction in force	PROP 94-06-066		PROP 94-04-121
Salaries	PERM 94-10-008	political committees	PERM 94-07-141
reallocation	EMER 94-04-085		PROP 94-05-097
Service of process			PERM 94-07-141
	PROP 94-12-058		PROP 94-03-087
	PROP 94-12-060		PROP 94-04-121
	PROP 94-02-036		PROP 94-05-097
	PROP 94-04-084	prohibited contributions	PROP 94-07-035
	PERM 94-08-024		PERM 94-11-016
	PROP 94-12-057	source of contribution, identification	PERM 94-11-016
State internship program	PERM 94-02-033		PROP 94-07-035
	PROP 94-02-035		PROP 94-07-088
Trial service	PROP 94-02-034		PROP 94-07-089
Washington management service		Enforcement	PERM 94-11-016
Washington general service, movement between	PROP 94-04-009	Exempt activities	PERM 94-05-010
	PERM 94-04-011	definition and reporting limitations	MISC 94-01-054
		Lobbyists and lobbying agency lobbying report	MISC 94-01-054
PIERCE COLLEGE			
Meetings	MISC 94-02-017	employer contributions	PROP 94-07-035
			PERM 94-11-016
PILOTAGE COMMISSIONERS, BOARD OF		Meetings	PROP 94-07-035
Oil tankers			PERM 94-11-016
tug escort requirements	PROP 94-04-119		PERM 94-05-010
	PERM 94-07-079		MISC 94-13-001
Pilotage tariff rates		Public records, availability	MISC 94-14-073
Grays Harbor district	PROP 94-01-153	Volunteer services	PERM 94-05-010
	EMER 94-01-154		PROP 94-07-142
	EMER 94-05-005		PERM 94-11-017
	PERM 94-05-006		
Puget Sound district	PROP 94-08-056	PUBLIC EMPLOYEES BENEFITS BOARD	
	PERM 94-12-044	(See HEALTH CARE AUTHORITY)	
		PUBLIC INSTRUCTION, SUPERINTENDENT OF	
POLLUTION CONTROL HEARINGS BOARD		Administrator internship program	PROP 94-04-025
Appeals	EMER 94-07-061		PERM 94-07-102
	PROP 94-07-098	Child nutrition	
	PERM 94-12-027	practice and procedures	PROP 94-01-137
			PERM 94-04-097
PUBLIC DISCLOSURE COMMISSION		Funding	
Affiliated entities	PROP 94-08-080	appropriation allocation	PREP 94-13-119
Aggregate, definition	MISC 94-01-054	block grants, distribution	PROP 94-11-066
Campaign finance reporting forms	EMER 94-01-039		PERM 94-14-050
	PROP 94-01-040	Elementary and Secondary Education Act compliance	
	PERM 94-05-011		PROP 94-04-094
Collective bargaining organizations and associations, definitions	PERM 94-05-010		PERM 94-07-103
Contributions		enrollment counting	PREP 94-13-120
annual report	EMER 94-07-001	instructional counting	PREP 94-13-210
	PROP 94-07-035	local enhancement funding, distribution	PROP 94-11-066
	PERM 94-11-016		PERM 94-14-050
automatically affiliated entities	PROP 94-07-142	technical colleges, basic education funding	
	PERM 94-11-017		PREP 94-13-094
designation for primary and general elections		Magnet school programs	PROP 94-13-107
	PROP 94-03-087		PROP 94-08-074
	PROP 94-04-121	Running start program	PERM 94-12-019
	PROP 94-05-097		PROP 94-01-114
	PERM 94-07-141		PROP 94-01-136
encouraging expenditures to avoid contributions, result	MISC 94-01-054	Salary allocations	PERM 94-04-095
fair market value, definition	PROP 94-07-088	certificated instructional staff	PERM 94-01-190
	PERM 94-11-018	Student learning improvement grants	PROP 94-04-122
			PERM 94-12-002

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Teacher assistance program	PROP	94-11-120	recomputation following reemployment	PROP	94-05-013
Transportation state allocation	PREP	94-14-076		PERM	94-09-040
	PROP	94-14-093	Standby pay	PROP	94-13-048
PUBLIC WORKS BOARD (See COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)			REVENUE, DEPARTMENT OF		
PUGET SOUND AIR POLLUTION CONTROL AGENCY			Business and occupation tax agricultural products, sales by producers	PROP	94-03-034
Chromic acid plating and anodizing	PERM	94-01-083		PERM	94-07-048
Coatings	PERM	94-01-083	farmers, miscellaneous sales to	PROP	94-03-037
	PROP	94-02-083		PERM	94-07-051
	PERM	94-05-067	feed, seed, fertilizer, and spray materials for farm use	PROP	94-03-035
Compliance with regulations	PERM	94-01-083		PERM	94-07-049
	PROP	94-02-083	heat or steam sales	PROP	94-01-155
	PERM	94-05-067		PERM	94-13-033
Construction permits notice and review requirements	PROP	94-06-062	horticultural services to farmers	PROP	94-03-036
	PERM	94-09-035		PERM	94-07-050
Control officer duties and powers	PROP	94-02-083	hospitals, medical care facilities, and adult family homes	PROP	94-01-158
	PERM	94-05-067		EMER	94-05-083
Definitions	PROP	94-02-083	hotels, motels, and boarding houses	PERM	94-11-097
	PERM	94-05-067		PROP	94-01-157
	PROP	94-06-061	landscape and horticultural services	PERM	94-05-001
	PERM	94-09-034	laundries and dry cleaners	PROP	94-10-013
Emission standards compliance	PROP	94-02-083		PROP	94-01-156
	PERM	94-05-067	motor carriers, sales to interstate or foreign commerce carriers	PERM	94-09-016
Gasoline loading terminals	PERM	94-01-083	schools and educational institutions	PROP	94-07-023
Gasoline stations vapor recovery	PROP	94-02-083		PROP	94-03-047
	PERM	94-05-067	tax reporting	PERM	94-07-047
Meetings	MISC	94-07-068		EMER	94-05-085
Outdoor fires exemptions from emission standards	PROP	94-06-061	ticket sellers	EMER	94-13-032
	PERM	94-09-034	tour operators	PROP	94-07-027
	PROP	94-06-061		EMER	94-05-086
	PERM	94-09-034	Cigarette tax reporting	EMER	94-13-029
Oxygenated gasoline oxygen content	PROP	94-08-085		PROP	94-07-026
	PERM	94-11-077	Excise tax	PERM	94-10-062
Refuse burning Sources registration	PERM	94-01-083	real estate excise tax administration and compliance	PERM	94-04-088
	PROP	94-02-083		PROP	94-13-089
	PERM	94-05-067	tobacco products tax reporting	PROP	94-07-025
			Inflation rates	PROP	94-08-082
PUGET SOUND WATER QUALITY AUTHORITY				PERM	94-11-098
Meetings	MISC	94-03-017	Property tax		
Puget Sound water quality management plan	MISC	94-04-128	agricultural land valuation	PROP	94-01-166
Rules coordinator	MISC	94-02-019		PERM	94-05-062
			exemptions	PROP	94-01-169
RENTON TECHNICAL COLLEGE				PERM	94-07-008
Meetings	MISC	94-03-015	forest land values	PERM	94-02-046
			levies	PERM	94-07-066
RETIREMENT SYSTEMS, DEPARTMENT OF			nonprofit homes for aging	PROP	94-10-060
Annual leave			nonprofit organizations, associations, and corporations, exemption conditions	PROP	94-01-169
cash payments in lieu of unused leave	PROP	94-07-144		PERM	94-07-008
Elected and appointed officials, eligibility and application for retirement service membership	PROP	94-08-087	open space taxation	PROP	94-07-123
	PERM	94-12-014	personal property ratio, computation	PROP	94-11-099
Employee status, determination	PROP	94-05-012		PREP	94-13-096
	PERM	94-09-039	refunds, rate of interest	PROP	94-01-168
Location restricted compensation	PROP	94-13-048		PERM	94-05-064
	PREP	94-13-122	Public utility tax	PROP	94-01-167
	PROP	94-13-197		PERM	94-05-063
Retirement allowance calculation	PROP	94-07-144	Sales tax	PROP	94-01-159
	PERM	94-11-009	agricultural products, sales by producers	PERM	94-13-034
judicial plan members recomputation following reemployment	PROP	94-07-143		PROP	94-03-034
	PERM	94-11-008	farmers, miscellaneous sales to	PERM	94-07-048
plan II members				PROP	94-03-037
				PERM	94-07-051

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

feed, seed, fertilizer, and spray materials for farm use	PROP 94-03-035	Seattle Community Colleges	MISC 94-01-107
	PERM 94-07-049	Spokane, Community Colleges of	MISC 94-01-009
heat or steam sales	PROP 94-01-155	Trade and economic development, department of	MISC 94-01-183
	PERM 94-13-033	Utilities and transportation commission	MISC 94-02-026
horticultural services to farmers	PROP 94-03-036	Washington state patrol	MISC 94-08-047
	PERM 94-07-050	Whatcom Community College	MISC 94-01-044
hospitals, medical care facilities, and adult family homes	PROP 94-01-158	SEATTLE COMMUNITY COLLEGES	
	EMER 94-05-084	Contested case hearings and administrative disputes	PROP 94-05-097A
hotels, motels, and boarding houses	PERM 94-11-097	Meetings	MISC 94-01-006
	PROP 94-01-157		MISC 94-01-085
landscape and horticultural services	PERM 94-05-001		MISC 94-01-131
laundries and dry cleaners	PROP 94-10-013		MISC 94-03-059
	PROP 94-01-156		PROP 94-05-097A
	PERM 94-09-016		MISC 94-06-033
motor carriers, sales to interstate or foreign commerce carriers	PROP 94-07-023		MISC 94-07-101
resale certificates, use and penalties for misuse	EMER 94-05-083		MISC 94-08-064
	PROP 94-06-004		MISC 94-08-065
	EMER 94-13-030		MISC 94-09-014
	PERM 94-13-031		MISC 94-13-075
schools and educational institutions	PROP 94-03-047	Rules coordinator	MISC 94-14-070
	PERM 94-07-047		MISC 94-01-107
tax reporting	EMER 94-05-085	SECRETARY OF STATE	
	EMER 94-13-032	Archives and records management, division of electronic imaging systems, standards for accuracy and durability	PROP 94-01-161
ticket sellers	PROP 94-07-027		PROP 94-03-081
tour operators	EMER 94-05-086		PERM 94-04-102
	EMER 94-13-029		
watercraft, sales to nonresidents	PROP 94-03-046	Corporations division	
Timber excise tax		charitable solicitation organizations	
stumpage values	PERM 94-02-047	financial reporting	PERM 94-01-004
	PROP 94-02-073		PROP 94-10-054
	PROP 94-02-074	registration	PERM 94-01-004
	PROP 94-03-086	charitable trusts	
	PROP 94-04-089	financial reporting	PERM 94-01-004
	PROP 94-04-090		PROP 94-10-054
	PROP 94-09-057		PERM 94-01-004
	PROP 94-10-063	registration	
	PERM 94-14-048	commercial fund raisers	
Tobacco products tax		auditing standards	PERM 94-02-011
reporting	PROP 94-07-025	registration	PERM 94-02-011
	PERM 94-10-061	fees	PERM 94-01-074
Use tax			PROP 94-12-085
motor carriers, operation in interstate or foreign commerce	PROP 94-07-024	limited liability companies	PROP 94-12-086
		limited partnerships	PROP 94-12-085
		naming conventions	PROP 94-12-085
		trademarks	PROP 94-12-085
		Election training and certification program	PROP 94-01-010
			PERM 94-07-018
RULES COORDINATORS		SHORELINE COMMUNITY COLLEGE	
(See Issue 94-01 for a complete list of rules coordinators designated as of 12/22/93)		Meetings	MISC 94-03-012
Arts commission	MISC 94-01-099	SHORELINES HEARINGS BOARD	
Big Bend Community College	MISC 94-07-005	Appeals	EMER 94-07-060
Central Washington University	MISC 94-01-105		PROP 94-07-095
Clover Park Technical College	MISC 94-01-043		PERM 94-12-028
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		
		Records, availability	PERM 94-01-028
		Smoking policy	PERM 94-01-028

Subject/Agency Index

(Citation in bold type refer to material in this issue)

SOCIAL AND HEALTH SERVICES, DEPARTMENT OF

Aid to families with dependent children entitlements

income allocation

income disregard

mandatory monthly reporting

net cash income

replacement of exempt property

Alcohol and substance abuse, division of chemical dependency treatment service providers certification

Children and family services, division of day care centers licenses

Deaf and hard of hearing services telecommunications access service (TAS)

Developmental disabilities, division of family support services

Disaster relief

Food stamp program adult children and siblings, eligibility

alcohol and drug treatment center residents, eligibility

aliens verification for entitlements

halfway house residents, eligibility

income budgeting

income deductions

information release to child support programs

interview process

medical expenses, deduction of recurring

monthly reporting

resources, exemptions

standards of assistance

students, eligibility

work

employment and training

voluntary quit

Home and community services division chore personal services budget control

PROP 94-05-069
PERM 94-08-015
PROP 94-05-019
PERM 94-08-019
PROP 94-05-054
PERM 94-08-021
PROP 94-05-017
PERM 94-08-017
PROP 94-05-016
PERM 94-08-016
PROP 94-05-018
PERM 94-08-018

PERM 94-02-002
PROP 94-02-020
PROP 94-07-072

PROP 94-11-111
PERM 94-13-201

PROP 94-01-080
PERM 94-02-042
EMER 94-04-032
PERM 94-04-037

PROP 94-01-062
EMER 94-01-063
EMER 94-01-064
PERM 94-04-092
PROP 94-01-011

PREP 94-13-116
PROP 94-13-132

PREP 94-13-117
PROP 94-13-131

PROP 94-11-064
PERM 94-13-203
PREP 94-13-118
PROP 94-13-133
PROP 94-03-041
PROP 94-06-023
PROP 94-07-031
PERM 94-12-042
PROP 94-13-130
PREP 94-13-194

PROP 94-11-064
PERM 94-01-066
PREP 94-14-018
PREP 94-14-077
PROP 94-03-050
PERM 94-06-027
PERM 94-07-080
PROP 94-13-026
EMER 94-02-043
PREP 94-13-129

PREP 94-14-045
PREP 94-14-046
PREP 94-14-047
PREP 94-14-045
PREP 94-14-046
PREP 94-14-047

PROP 94-07-082
PERM 94-10-025

Income assistance alien's sponsor's income

consolidated emergency assistance program (CEAP)

disqualification entitlements

income allocation

income disregard

income exclusions incorrect payments in-kind income

monthly allotments net cash income

newly acquired nonexempt resources and income

protective payments

quality control review cooperation replacement of exempt property

rules reorganization

self-employment resource exemptions

special payments

standards of assistance

supplemental security income (SSI) program

transfer of property

unearned income violations, disqualification

Individual and family grant program disaster relief

Juvenile rehabilitation, division of collection of costs of support, treatment, and confinement consolidated juvenile services program

parole conditions

Medical assistance children, eligibility

client grievances

PROP 94-10-086
PERM 94-13-050

PROP 94-03-051
PERM 94-06-026

PROP 94-13-024
PROP 94-05-069

PERM 94-08-015
PROP 94-05-019

PERM 94-08-019
PROP 94-05-054

PERM 94-08-021
PROP 94-12-003

PROP 94-02-052
PROP 94-04-042

PERM 94-08-022
PROP 94-12-083

PROP 94-05-016
PERM 94-08-016

PROP 94-05-029
PERM 94-08-020

PROP 94-11-024
PERM 94-13-202

PROP 94-13-007
PROP 94-05-018

PERM 94-08-018
PROP 94-07-114

PERM 94-10-065
PROP 94-13-008

EMER 94-13-009
PROP 94-03-055

PERM 94-06-024
PROP 94-06-035

PERM 94-09-001
PROP 94-01-118

PERM 94-04-035
PROP 94-06-035

PERM 94-09-001
PROP 94-12-004

PROP 94-01-118
PROP 94-01-138

PERM 94-04-033
PERM 94-04-035

EMER 94-14-004
PROP 94-01-139

PERM 94-04-043
PROP 94-13-054

EMER 94-13-055
PREP 94-13-114

PROP 94-13-024
PROP 94-01-011

PERM 94-04-036

PROP 94-12-066
PROP 94-08-007

PERM 94-11-065
PROP 94-12-026

EMER 94-08-043
PROP 94-08-044

PROP 94-11-059
EMER 94-11-063

EMER 94-14-053
PROP 94-14-055

PROP 94-01-003
PERM 94-04-038

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

copayments	EMER	94-08-045	rules reorganization	PROP	94-07-114
	PROP	94-08-046		PERM	94-10-065
	PERM	94-11-057	speech therapy services	PERM	94-01-065
	PROP	94-11-058		PROP	94-04-022
cost recovery	EMER	94-11-061	SSI-related income exemptions	EMER	94-04-023
	PREP	94-13-104		PROP	94-07-030
	EMER	94-14-052		PERM	94-02-005
	PROP	94-14-056		EMER	94-08-041
drugs				PROP	94-08-042
discount agreement	PROP	94-01-046		PROP	94-11-060
	PERM	94-01-094		EMER	94-11-062
eligibility			working disabled		
effective date	PROP	94-05-026	hospital premium insurance	EMER	94-11-063
	PERM	94-07-132	Mental health division		
income standards	PREP	94-13-102	community mental health programs	PROP	94-12-005
	PREP	94-13-103	hospital charges, schedule	PROP	94-13-051
	EMER	94-14-054		EMER	94-14-005
	PROP	94-14-057	managed care prepaid healthcare plans	PROP	94-02-003
exempt resources	PERM	94-02-007		EMER	94-02-004
eyeglasses and examinations	PROP	94-01-081		EMER	94-02-008
	EMER	94-02-044		PROP	94-02-009
	PROP	94-04-031	Nursing homes	PERM	94-07-020
	PROP	94-05-044	accounting and reimbursement		
	PROP	94-07-021	system	PROP	94-07-109
	PERM	94-07-122		PERM	94-12-043
hearing aids	PROP	94-02-050	rules and regulations	PERM	94-14-016
	EMER	94-02-051	Public records	PROP	94-13-052
	PROP	94-05-043	disclosure and exemptions		
	PERM	94-07-022	Restoration of right to possess		
home health services	PROP	94-01-147	firearms by former involuntarily	PROP	94-13-025
	PERM	94-03-052	committed person		
income and resources, computation	EMER	94-08-041		EMER	94-03-004
	PROP	94-08-042		PROP	94-03-005
	PROP	94-11-060		PERM	94-06-025
	EMER	94-11-062	Special commitment center		
incorrect payments	PROP	94-02-052	travel policy and expenses	PROP	94-07-087
	PERM	94-05-045		PERM	94-12-006
infusion, enteral and parenteral			Support enforcement		
therapy	PREP	94-13-105	assessing support	PROP	94-07-041
institutionalized client				EMER	94-07-042
allocation				PERM	94-10-064
of income and resources	PERM	94-02-006	collection actions	PROP	94-11-112
	PROP	94-05-025	conference board process	PROP	94-11-110
	PERM	94-07-130	defenses to liability	PROP	94-07-081
	EMER	94-08-043		PERM	94-10-033
	PROP	94-08-044	eligibility for services	PROP	94-11-112
	PROP	94-11-059	equitable estoppel	PROP	94-07-081
	EMER	94-11-063		PERM	94-10-033
trusts	EMER	94-05-027	good cause not to cooperate	PROP	94-01-042
	PROP	94-05-028		PERM	94-04-034
	PERM	94-07-131	responsibilities of office	PROP	94-11-112
Medicare cost sharing	EMER	94-08-043	Telecommunications access service (TAS)		
	PROP	94-08-044	transition policies	PROP	94-01-080
	PROP	94-11-059		EMER	94-04-032
	EMER	94-11-063		PERM	94-04-037
mental health services, managed care			Vocational rehabilitation, division of		
prepaid healthcare plans	PROP	94-01-079	services for the handicapped	PREP	94-14-096
	PROP	94-01-140			
	PROP	94-02-003	SOUTH PUGET SOUND COMMUNITY COLLEGE		
	EMER	94-02-004	Meetings	MISC	94-03-032
	EMER	94-02-008		MISC	94-05-031
	PROP	94-02-009		MISC	94-08-061
	PERM	94-07-020		MISC	94-13-093
occupational therapy	PERM	94-01-065	SPOKANE, COMMUNITY COLLEGES OF		
	PROP	94-04-022	Meetings	MISC	94-01-019
	EMER	94-04-023		MISC	94-10-050
	PERM	94-07-030		MISC	94-13-137
physical therapy	PERM	94-01-065	Rules coordinator	MISC	94-01-009
	PROP	94-04-022			
	EMER	94-04-023	SPOKANE COUNTY AIR POLLUTION CONTROL		
	PERM	94-07-030	AUTHORITY		
pregnant women	EMER	94-08-043	Dust control on unpaved roads		
	PROP	94-08-044	contingency measures	PROP	94-13-193
	PROP	94-11-059			
	EMER	94-11-063			

Subject/Agency Index

(Citation in bold type refer to material in this issue)

Solid fuel burning devices standards	PERM 94-03-027 PROP 94-13-192	Ferry system tolls	PROP 94-04-077 PERM 94-07-104 PREP 94-14-025 PROP 94-14-026
SUPREME COURT		Highway Advertising Control Act highway fatality markers	PROP 94-09-031 PERM 94-12-049
Amendments to Rules of Court	MISC 94-14-075	national scenic byway demonstration project	PROP 94-09-031 PERM 94-12-049
Bail and mandatory appearance (CrRLJ)	MISC 94-08-002	political campaign signs	PROP 94-09-031 PERM 94-12-049
Bar association		Motor vehicles	
collective bargaining for employees (GR 12)	MISC 94-01-025	overlength exemptions	EMER 94-02-064 PROP 94-03-043 PERM 94-07-055
Judicial information system		oversized vehicle fare cost recovery	PREP 94-14-025 PROP 94-14-026
records, contents (JISCR)	MISC 94-07-058	temporary additional tonnage permits	PROP 94-03-042 PERM 94-07-054
Infractions, monetary penalties (IRLJ 6.2)	MISC 94-08-001	Practice and procedure	PROP 94-12-070 PERM 94-14-101
Videotaped proceedings (RAP)	MISC 94-01-024	Real property acquisition and relocation assistance	PROP 94-12-071 PERM 94-14-102
TACOMA COMMUNITY COLLEGE		UNIVERSITY OF WASHINGTON	
Discrimination	PROP 94-03-082	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
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 PROP 94-03-082	USURY RATES (See inside front cover)	
Sexual harassment		UTILITIES AND TRANSPORTATION COMMISSION	
TAX APPEALS, BOARD OF		Administrative procedures	PROP 94-07-140 PROP 94-07-140
Hearings		alternate dispute resolution case management	
procedures for requesting formal or informal hearing	PROP 94-03-056 PROP 94-03-057 PERM 94-07-043 PERM 94-07-044 MISC 94-01-016	Auto transportation companies applications	PROP 94-07-137 PERM 94-11-021 PROP 94-07-137 PERM 94-11-021
Meetings		equipment	PROP 94-07-137 PERM 94-11-021
TOXICOLOGIST, STATE		operation of vehicles	PROP 94-07-137 PROP 94-11-020 PROP 94-07-137 PERM 94-11-021
Breath alcohol test program	PROP 94-07-073	tariffs	
TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (See also COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF)		Commercial ferries	PERM 94-03-003 PERM 94-03-003
Community economic revitalization board meetings	MISC 94-04-109	definitions	
Hardwoods commission meetings	MISC 94-03-039 MISC 94-07-017 MISC 94-01-183	tariffs	
Rules coordinator		Electric utilities	PROP 94-01-175 PERM 94-07-045
TRAFFIC SAFETY COMMISSION		purchases of electricity	PERM 94-03-001 MISC 94-02-027
Meetings	MISC 94-02-066	Log road classification	
TRANSPORTATION COMMISSION		Meetings	
Highway corridor and alignment authority	PROP 94-08-054 PERM 94-14-065 MISC 94-01-143 MISC 94-04-040 MISC 94-06-041 MISC 94-07-113 MISC 94-10-019 MISC 94-12-073 MISC 94-13-200	Motor freight carriers	PROP 94-11-104 PERM 94-14-013 PERM 94-03-002 PROP 94-07-135 PERM 94-11-022
Meetings		alcohol and controlled substance testing	
TRANSPORTATION IMPROVEMENT BOARD		Motor vehicles	
Meetings	MISC 94-03-030 MISC 94-08-084 MISC 94-11-028 MISC 94-13-035 MISC 94-14-074	overlength exemptions	
TRANSPORTATION, DEPARTMENT OF		oversized vehicle fare cost recovery	
Adjudicative proceedings	PROP 94-12-070 PERM 94-14-101	temporary additional tonnage permits	
Contractors		Practice and procedure	
prequalification	PROP 94-01-021 PERM 94-05-004	Real property acquisition and relocation assistance	

Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

driver responsibilities	PROP 94-11-104	VOCATIONAL-TECHNICAL EDUCATION, COUNCIL ON		
	PERM 94-14-013		Meetings	MISC 94-01-093
permit rights, transfer	PROP 94-07-135		MISC 94-04-082	
	PERM 94-11-022		MISC 94-07-071	
safety, drivers and equipment	PROP 94-07-135		MISC 94-11-083	
	PROP 94-11-019			
	PERM 94-11-022			
	PROP 94-11-104	VOLUNTEER FIREFIGHTERS, BOARD FOR		
	PERM 94-14-013	Meetings	MISC 94-03-031	
Motor vehicles			MISC 94-05-020	
interstate carriers				
registration	EMER 94-01-041	WALLA WALLA COMMUNITY COLLEGE		
limousine charter party carriers		Meetings	MISC 94-04-027	
operation	PROP 94-10-071		MISC 94-12-074	
	PERM 94-14-010			
registration	PROP 94-10-071	WASHINGTON STATE HISTORICAL SOCIETY		
	PERM 94-14-010	Meetings	MISC 94-01-018	
log road classification	PERM 94-03-001			
North American uniform out-of-service criteria, adoption	PROP 94-11-102	WASHINGTON STATE LIBRARY		
	PROP 94-11-103	Continuing education, council on membership	PERM 94-11-023	
	PERM 94-14-011	Library commission		
	PERM 94-14-014	meetings	MISC 94-06-053	
passenger charter carriers			MISC 94-13-042	
operation	PROP 94-10-072			
	PERM 94-14-015	WASHINGTON STATE PATROL		
registration	PROP 94-10-072	Commercial vehicles		
	PERM 94-14-015	rules promulgation	PROP 94-05-023	
Organization and operation	PROP 94-07-139	tire chains or traction devices	EMER 94-02-081	
	PERM 94-11-002		PROP 94-02-082	
Private carriers			PERM 94-08-069	
household goods moves, excessive charges	PROP 94-07-134	Emergency vehicles parked on roadways	PREP 94-13-079	
	PERM 94-11-001	Hazardous materials		
registration and regulation	PROP 94-07-134	procedure upon entering state	PERM 94-01-180	
	PERM 94-11-001	Private carriers		
Railroads		drivers' qualifications	PERM 94-01-178	
annual reports	PROP 94-07-138	hours of service of drivers	PERM 94-01-178	
	PERM 94-11-003	private carrier, term changed to commercial motor vehicle	PROP 94-05-023	
hazardous materials transport	PROP 94-07-138		PERM 94-08-004	
	PERM 94-11-003	Rules coordinator	MISC 94-08-047	
rates, notice	PROP 94-11-101	School buses		
	PERM 94-14-012	lamps, operation	PERM 94-01-179	
track clearances	PROP 94-07-138	stop signal arms	PERM 94-01-179	
	PERM 94-11-003	Sunscreen tint film decals	PERM 94-05-024	
Rules coordinator	MISC 94-02-026	Tow trucks		
Solid waste collection companies		business standards	PREP 94-13-078	
driver qualifications	PROP 94-11-102			
equipment safety	PROP 94-11-102	WASHINGTON STATE UNIVERSITY		
hazardous materials transport	PROP 94-11-102	Academic integrity		
insurance requirements	PROP 94-07-136	standards	PREP 94-13-139	
	PERM 94-11-004	violations	PREP 94-13-139	
rate increases, notice	PROP 94-11-101	Adjudicative hearings	PREP 94-13-143	
Telecommunication companies		Bids for goods and services		
alternative operator services	PROP 94-13-027	bid protest	PREP 94-13-144	
complaints	PROP 94-13-027	Library Plaza use	PREP 94-13-148	
deposits	PROP 94-13-027		PREP 94-13-149	
disconnection of service	PROP 94-13-027	Library use	PREP 94-13-151	
mandatory cost changes	PERM 94-01-146	Meetings	MISC 94-01-121	
open network architecture environment	PROP 94-01-191		MISC 94-10-015	
pay telephone call restriction	PROP 94-05-048	Nursing education center parking	PREP 94-13-145	
refusal of service	PROP 94-13-027	Parking	PREP 94-13-153	
Water companies		Residency determination	PREP 94-13-152	
customer deposits, interest	PERM 94-01-095	Smoking regulations	PREP 94-13-150	
		Student disciplinary process	PREP 94-13-142	
VETERANS' AFFAIRS, DEPARTMENT OF		Student living groups		
State veterans' homes		alcohol policies	PREP 94-13-140	
Medicaid funded programs	PROP 94-09-043	conduct regulations	PREP 94-13-141	
	PROP 94-14-037	Student organizations	PREP 94-13-147	
non-Medicaid funded programs	PROP 94-09-043	Student records	PREP 94-13-146	
	PROP 94-14-037			
resident income and resources	PERM 94-04-001	WHATCOM COMMUNITY COLLEGE		
		Meetings	MISC 94-01-184	
		Rules coordinator	MISC 94-01-044	

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