

Washington State Register

FEBRUARY 1, 1995

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filed not later than January 18, 1995

CITATION

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

PUBLIC INSPECTION OF DOCUMENTS

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

REPUBLICATION OF OFFICIAL DOCUMENTS

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

CERTIFICATE

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

DENNIS W. COOPER
Code Reviser

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

The maximum allowable interest rate applicable for the month of February 1995 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

Dennis W. Cooper
Code Reviser

Gary Reid
Chief Assistant Code Reviser

Kerry S. Radcliff
Editor

Joyce Matzen
Subscription Clerk

STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following six sections:

- (a) **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].

1994 - 1995

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>
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
95-01	Nov 23	Dec 7	Dec 21, 1994	Jan 4, 1995	Jan 24
95-02	Dec 7	Dec 21, 1994	Jan 4, 1995	Jan 18	Feb 7
95-03	Dec 21, 1994	Jan 4, 1995	Jan 18	Feb 1	Feb 21
95-04	Jan 4	Jan 18	Feb 1	Feb 15	Mar 7
95-05	Jan 18	Feb 1	Feb 15	Mar 1	Mar 21
95-06	Feb 1	Feb 15	Mar 1	Mar 15	Apr 4
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95-21	Sep 20	Oct 4	Oct 18	Nov 1	Nov 21
95-22	Oct 4	Oct 18	Nov 1	Nov 15	Dec 5
95-23	Oct 25	Nov 8	Nov 22	Dec 6	Dec 26
95-24	Nov 8	Nov 22	Dec 6	Dec 20	Jan 9, 1996

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

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

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

REGULATORY FAIRNESS ACT

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

Small Business Economic Impact Statements (SBEIS)

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

Mitigation

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

When is an SBEIS Required?

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

When is an SBEIS Not Required?

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

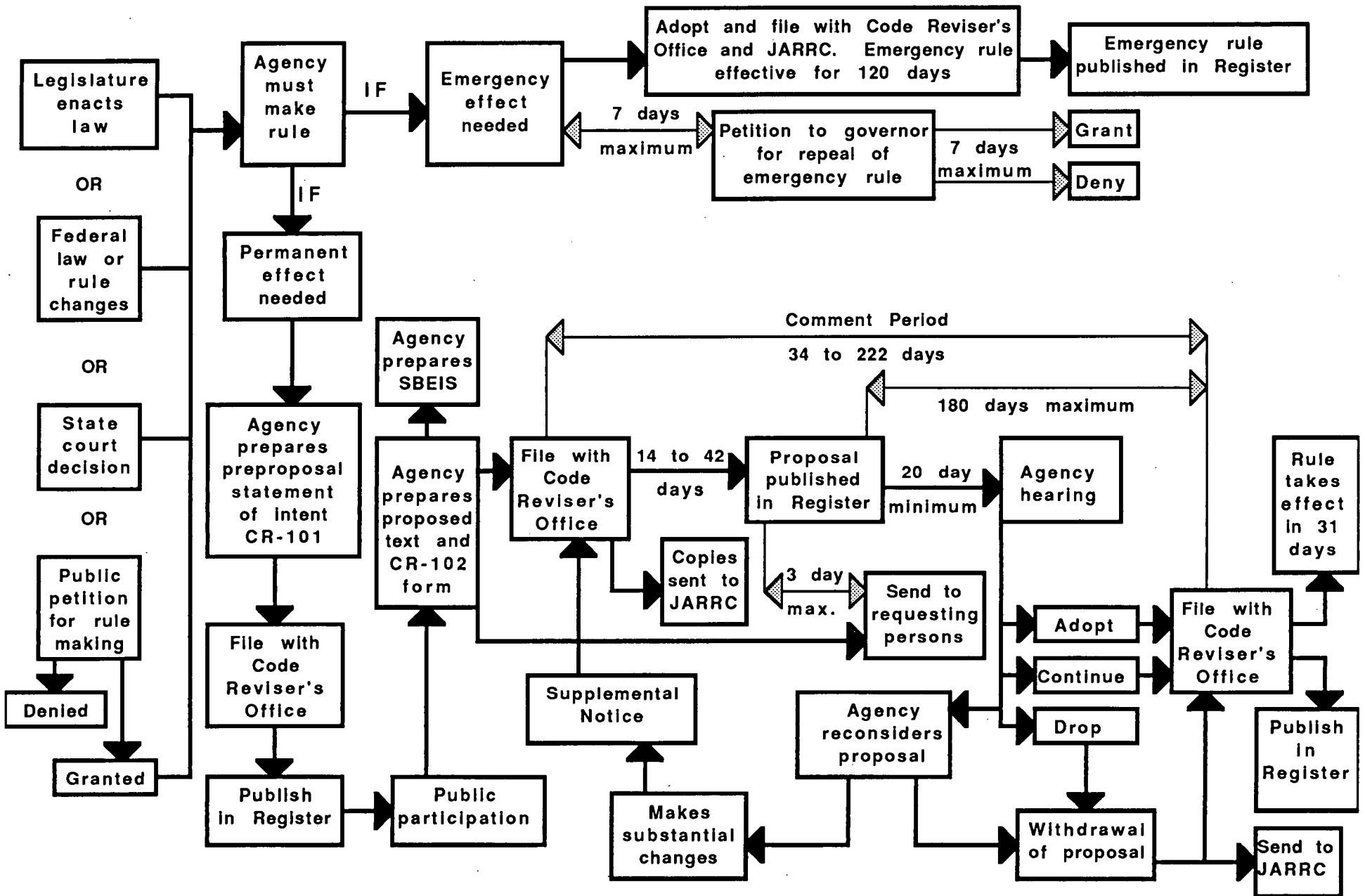
There is less than minor economic impact on business;

The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

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

The rule is pure restatement of state statute.

RULE-MAKING PROCESS



WSR 95-03-003
PREPROPOSAL STATEMENT OF INTENT
PARKS AND RECREATION
COMMISSION

[Filed January 5, 1995, 9:04 a.m.]

Specific Statutory Authority for New Rule: RCW 43.51.060, 43.51.415.

Reasons Why the New Rule is Needed: Current rule limits environmental interpretation services and prohibits the level of services desired by the public.

Goals of New Rule: To expand environmental interpretation/learning services and facilities in parks.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Attend commission meeting. Contact: State Parks Headquarters. Rex Derr, Chief Programs Management, Washington State Parks and Recreation Commission, 7150 Cleanwater Lane, P.O. Box 42650, Olympia, WA 98504-2650, (206) 902-8606, FAX (206) 586-5875.

January 5, 1995
Sharon Howdeshell
Office Manager

WSR 95-03-020
PREPROPOSAL STATEMENT OF INTENT
CRIMINAL JUSTICE
TRAINING COMMISSION

[Filed January 10, 1995, 11:05 a.m.]

Subject of Possible Rule Making: Delegating the correctional agencies the authority to forgo basic corrections academy training for newly employed middle management and executives.

Specific Statutory Authority for New Rule: RCW 43.101.220.

Reasons Why the New Rule is Needed: Training commission rules currently require all new correctional employees to attend and successfully complete an entry level basic academy training program. This rule will allow the employing agency to forgo such basic academy training for employees occupying middle management or executive positions.

Goals of New Rule: To provide flexibility and responsiveness to correctional agencies in identifying and determining the appropriate training needs of employees hired into middle management or executive positions.

Process for Developing New Rule: Negotiated rule making; and recommendations from corrections employers who are impacted by these rules.

How Interested Parties can Participate in Formulation of the New Rule: Information on recommendations regarding this rule may be submitted telephonically or in writing to the Training Commission Director, James C. Scott, (360) 459-6342, or through public testimony at the commissions quarterly meeting on March 16, 1995.

January 9, 1995
James C. Scott
Executive Director

WSR 95-03-055
PREPROPOSAL STATEMENT OF INTENT
GAMBLING COMMISSION

[Filed January 12, 1995, 4:00 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Amendments should enhance the ability of organizations to raise funds from raffles.

Goals of New Rule: Amendment enhances the ability of youth organizations and charitable/nonprofit organizations to raise funds from raffles. Clarifies restrictions for offering and awarding firearms as raffle prizes and the guidelines and restrictions for raffle prizes.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654, ext. 305, FAX (206) 438-8652.

January 12, 1995
Shanna R. Lingel
Rules Coordinator

WSR 95-03-056
PREPROPOSAL STATEMENT OF INTENT
GAMBLING COMMISSION

[Filed January 12, 1995, 4:01 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Amendments clarify commercial stimulant in accordance with amendments to RCW 9.46.0217. Net gambling receipts are no longer required to be less than gross food and drink sales.

Goals of New Rule: Amendments clarify definition of commercial stimulant, licensed premises, food and/or drink business, established business, adjusted net gambling receipts and commercial stimulant reporting requirements.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654, ext. 305, FAX (206) 438-8652.

January 12, 1995
Shanna R. Lingel
Rules Coordinator

WSR 95-03-057
PREPROPOSAL STATEMENT OF INTENT
GAMBLING COMMISSION

[Filed January 12, 1995, 4:02 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Housekeeping changes to reflect the current number of assistant directors on staff.

Goals of New Rule: Amends rule to reflect three assistant directors currently on staff.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654, ext. 305, FAX (206) 438-8652.

January 12, 1995
Shanna R. Lingel
Rules Coordinator

WSR 95-03-058

PREPROPOSAL STATEMENT OF INTENT GAMBLING COMMISSION

[Filed January 12, 1995, 4:03 p.m.]

Specific Statutory Authority for New Rule: RCW 9.46.070.

Reasons Why the New Rule is Needed: Rules would require licensing charitable or nonprofit gambling managers. Amendments would also include the application requirements, procedures for licensing, and guidelines for the duties and responsibilities of a charitable or nonprofit gambling manager.

Goals of New Rule: Defines charitable or nonprofit gambling manager, outlines application guidelines, licensing procedures and the duties and responsibilities of gambling manager.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Shanna R. Lingel, Rules Coordinator, Washington State Gambling Commission, P.O. Box 42400, Olympia, WA 98504-2400, (206) 438-7654, ext. 305, FAX (206) 438-8652.

January 12, 1995
Shanna R. Lingel
Rules Coordinator

WSR 95-03-077

PREPROPOSAL STATEMENT OF INTENT INSURANCE COMMISSIONER'S OFFICE

[Filed January 17, 1995, 4:19 p.m.]

Subject of Possible Rule Making: Amendment to WAC 284-24-060 Rate filing requirements for certain types of property and casualty products. Insurance Commissioner Matter No. R 95-1.

Specific Statutory Authority for New Rule: RCW 48.02.060, 48.19.080.

Reasons Why the New Rule is Needed: The proposed amendment to WAC 284-24-060 will permit the commissioner to waive the filing requirements for certain lines of insurance. As a result, rate review efforts will be utilized in

a more efficient manner, and introduction of some products needed in the marketplace will not be delayed.

Goals of New Rule: This amendment will enable the commissioner to focus the agency's rate review efforts in the most critical areas, thus putting limited resources to better use. In addition, this amendment to WAC 284-24-060 will facilitate approval of insurance products needed in the marketplace.

Process for Developing New Rule: Solicitation of written comments.

How Interested Parties can Participate in Formulation of the New Rule: Kacy Brandeberry, Office of Insurance Commissioner, P.O. Box 40255, Olympia, WA 98504-0255, (206) 664-3790, FAX (206) 586-3535. Deadline for Written Comments: 5:00, February 17, 1995.

January 17, 1994 [1995]
Krishna Fells
Chief of Staff

AMENDATORY SECTION [(Amending WSR 94-20-059, filed 9/30/94)]

WAC 284-24-060 Modification of filing requirements. (1) Pursuant to RCW 48.19.080, the commissioner rules and hereby orders that the rate filing requirements set forth in chapter 48.19 RCW are modified so that:

(a) No filings with respect to rates pertaining to surplus line coverages placed in this state pursuant to chapter 48.15 RCW need be made, hereby confirming the longstanding practice in this state; and

(b) Rating organizations may make reference filings of prospective loss costs. Such filings shall contain the statistical data and supporting information for all calculations and assumptions underlying the prospective loss costs, but need not provide the information required by RCW 48.19.040 (2)(b) and (c). Filings of prospective loss costs must be approved by the commissioner prior to use by any insurer as a reference document. A member or subscribing insurer must file a loss cost adjustment and obtain the commissioner's approval prior to use of rates based on prospective loss costs.

A member or subscribing insurer of a rating organization may use rates based on prospective loss costs filed by such an organization and approved by the commissioner as a reference document without complying with the requirements of RCW 48.19.040 if:

(i) The insurer has an approved loss cost adjustment on file with the commissioner and proposes no changes to it; and

(ii) The insurer will begin using the prospective loss costs on the date proposed by the rating organization and approved by the commissioner.

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

(a) "Rating organization" means an organization licensed pursuant to RCW 48.19.180.

(b) "Member or subscribing insurer" means an insurer that has granted filing authority to a rating organization pursuant to RCW 48.19.050.

(c) "Prospective loss cost" means that portion of a rate that provides only for losses and loss adjustment expense and does not include provisions for expenses (other than loss

adjustment expenses) or profit, and is based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(d) "Loss cost adjustment" means a factor by which prospective loss costs are multiplied to obtain final rates. It takes into account:

- (i) Operating expenses;
- (ii) Underwriting profit (or loss) and contingencies;
- (iii) Investment income;
- (iv) Dividends, savings, or unabsorbed premium deposits allowed or returned to policyholders, members, or subscribers;

(v) Variations in loss experience unique to the insurer making the filing;

(vi) The effect of the timing difference on the prospective loss costs in those instances in which an insurer elects to begin using prospective loss costs on a date other than that proposed by the rating organization and approved by the commissioner; and

(vii) Other relevant factors, if any.

(e) "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or separately as prospective loss cost and loss cost adjustment, prior to any application of individual risk variations as permitted by WAC 284-24-100, and does not include minimum premiums or supplementary rating information.

(f) "Supplementary rating information" means any manual or plan of policy writing rules, rating rules, classification system, territory codes and descriptions, rating plans, and any other similar information needed to determine the applicable premium for an insured. It includes factors and relativities, such as increased limits factors, package modification factors, classification relativities, and deductible relativities.

(3) At the option of the commissioner, the requirements of RCW 48.19.040(2), 48.19.040(3), and WAC 284-24-065 may be waived with respect to rate filings for:

- (a) Burglary and theft, surety, boiler and machinery, crop and multiple peril crop, and individual risk filings; and
- (b) Insurance products for which there is limited market availability as determined by the commissioner.

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

WSR 95-03-080

PREPROPOSAL STATEMENT OF INTENT DEPARTMENT OF ECOLOGY

[Order 94-47—Filed January 17, 1995, 4:38 p.m.]

Specific Statutory Authority for New Rule: Chapter 43.21A RCW, Department of Ecology. Rule affected, chapter 173-12 WAC, General procedure.

Reasons Why the New Rule is Needed: This rule is being repealed because it outlines the general procedure for the Ecological Commission which was abolished by ESHB 2676 during the 1994 legislative session.

Goals of New Rule: To repeal the rule.

Process for Developing New Rule: In accordance with the Administrative Procedure Act, one hearing will be held.

How Interested Parties can Participate in Formulation of the New Rule: Paige Boule, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, (206) 407-6161.

January 13, 1995

Bill Alkire

Assistant Director

WSR 95-03-086

PREPROPOSAL STATEMENT OF INTENT BUILDING CODE COUNCIL

[Filed January 18, 1995, 8:30 a.m.]

Subject of Possible Rule Making: Repeal of chapters 51-20, 51-21, 51-22, 51-24 and 51-25 WAC.

Persons may Comment on this Subject in the Following Ways: Send written comments no later than March 10, 1995, to Gene Colin, Chair, Washington State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300. Present oral comments at a public hearing: General Administration Auditorium, 11th and Columbia Street, Olympia, Washington 98504-8300, on March 10, 1995, at 9:00 a.m.

Other Information or Comments by Agency at this Time, if any: Chapters 51-20 and 51-21 WAC are superseded by chapter 51-30 WAC; chapter 51-22 WAC is superseded by chapter 51-32 WAC; and chapters 51-24 and 51-25 WAC are superseded by chapters 51-34 and 51-35 WAC.

January 18 1995

Gene Colin

Council Chair

WSR 95-03-087

PREPROPOSAL STATEMENT OF INTENT BUILDING CODE COUNCIL

[Filed January 18, 1995, 8:33 a.m.]

Subject of Possible Rule Making: Establishing a methodology for the testing of factory-built fireplaces; and establishing design standards for the construction of new masonry fireplaces.

Persons may Comment on this Subject in the Following Ways: Submit nominations for membership on the Fireplace Technical Advisory Group (TAG) or request to be included on the mailing list. Meeting dates and locations to be determined at a later date. All interested parties will receive notification of TAG membership, meeting schedule, agendas, minutes and any additional information available.

Other Information or Comments by Agency at this Time, if any: As of January 1, 1997, the Washington Clean Air Act, chapter 70.94 RCW, will not allow the sale of fireplaces, except masonry fireplaces, unless such fireplaces meet the 1990 Environmental Protection Agency standards for wood stoves, or equivalent standards that may be established by the State Building Code Council (council). In developing the rules, the council will include on the Technical Advisory Group (TAG) at least one representative from the masonry fireplace builders and one representative of the factory-built fireplace manufacturers. Individuals or organizations wishing to submit nominations for membership on the TAG should submit a nomination letter, including

experience and qualifications of the nominated individual, to Gene Colin, Chair, Washington State Building Code Council, P.O. Box 48300, Olympia, WA 98504-8300. Nominations should be submitted no later than February 22, 1995. Formal appointments to the TAG will be made in late February. TAG meetings are proposed to be scheduled bi-monthly from March through June. The actual schedule will be established by the TAG at their first meeting. If you would like additional information, please contact TAG staff, David Scott, at (360) 586-3423.

January 18, 1995
Gene Colin
Chair

WSR 95-03-092
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF REVENUE

[Filed January 18, 1995, 10:55 a.m.]

Subject of Possible Rule Making: Amending WAC 458-20-183 Amusement and recreation activities and businesses.

Specific Statutory Authority for New Rule: RCW 82.32.300, the rule is being amended to implement the statutory changes to RCW 82.04.050 and 82.08.0291.

Reasons Why the New Rule is Needed: Amendments to this rule are needed to implement chapter 25, Laws of 1993 1st sp.s. and chapter 85, Laws of 1994. Additionally, the rule is being amended in order to give reporting instructions to nonprofit youth organizations that provide physical fitness services.

Goals of New Rule: The goals of this amended rule are to provide guidance as to what types of activities are taxable as retail sales and what types of activities are taxable under the service B&O tax classification while eliminating the existing rule's reliance on a participatory/nonparticipatory "test" for making this distinction.

Process for Developing New Rule: Department of Revenue modified negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Written comments and/or copies of rule may be directed to: Kerry Breen, Counsel, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone (206) 664-0087, FAX (206) 664-0693.

For Public Meeting: General Administration Building, Director's Conference Room, Room #415, 11th and Columbia Streets, Olympia, Washington, on February 21, 1995, at 10:00 a.m. Written comments should be submitted by the public meeting date to ensure full consideration, but will be accepted to date of adoption.

Assistance for Persons with Disabilities: Contact Gwendolyn Kopetsky by January 25, 1995, TDD 1 (800) 451-7985, or 1 (206) 753-3217.

January 18, 1995
Les Jaster
Rules Coordinator

WSR 95-03-094
PREPROPOSAL STATEMENT OF INTENT
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed January 18, 1995, 11:15 a.m.]

Subject of Possible Rule Making: Rules relating to securities of companies regulated by the Washington Utilities and Transportation Commission. Amending WAC 480-146-070, 480-146-080, 480-146-100, 480-146-200, 480-146-210, and 480-146-220 to be consistent with the changes to chapter 80.08 RCW. Docket No. A-950021.

Specific Statutory Authority for New Rule: RCW 80.01.040.

Reasons Why the New Rule is Needed: To update chapter 480-146 WAC to be consistent with revisions to chapter 80.08 RCW which were passed in the last legislative session.

Goals of New Rule: To update chapter 480-146 WAC to be consistent with revisions to chapter 80.08 RCW which were passed in the last legislative session. Also, consistent reporting requirements and minimized paperwork.

Process for Developing New Rule: Agency study; and workshop-type meetings with regulated companies and consumer representatives in which information and views are exchanged in an effort to reach consensus.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may contact Kathy Folsom at (360) 753-6412 or Andrea Kelly at (360) 664-8452, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, FAX (360) 586-1150. Written comments should be filed not later than the close of business February 10, 1995. A meeting will be held to discuss the proposed rule making on February 23, 1995, at 10:00 a.m., in the Commission's Main Hearing Room 250, 1300 South Evergreen Park Drive S.W., Olympia. After evaluating the comments of interested persons, the commission will determine whether additional public input is appropriate, and establish procedural requirements at that time.

January 18, 1995
Steve McLellan
Secretary

WSR 95-03-095
PREPROPOSAL STATEMENT OF INTENT
UTILITIES AND TRANSPORTATION
COMMISSION

[Filed January 18, 1995, 11:16 a.m.]

Subject of Possible Rule Making: Amending, repealing and adopting rules relating to motor carriers to conform with requirements of federal and state law, reflecting federal preemption and deregulation. Docket No. TV-941290.

Specific Statutory Authority for New Rule: RCW 80.01.040.

Reasons Why the New Rule is Needed: To comply with federal legislation and to begin the process to promulgate permanent rules to replace emergency rules.

Goals of New Rule: To comply with federal legislation.

Process for Developing New Rule: Agency study; and workshop-type meetings with regulated companies and

consumer representatives in which information and views are exchanged in an effort to reach consensus.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may contact Cathie Anderson, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, phone (360) 586-1153, FAX (360) 586-1150. Written comments should be filed not later than the close of business February 8, 1995. A workshop-type meeting will be held to discuss the proposed rule making with industry representatives on February 16, 1995, at 1:30 p.m. at the Commission's Kent Office, Meeker Square, 1313 West Meeker Street, Kent. Additional meetings will be held as needed.

January 18, 1995
Steve McLellan
Secretary

January 18, 1995
Wendy Holden
Deputy Commissioner

WSR 95-03-098

PREPROPOSAL STATEMENT OF INTENT EMPLOYMENT SECURITY DEPARTMENT

[Filed January 18, 1995, 11:35 a.m.]

Subject of Possible Rule Making: Adding a new chapter to Title 192 WAC to implement federal legislation on worker profiling.

Specific Statutory Authority for New Rule: RCW 50.12.010 Commissioner's duties and powers; 50.12.040 Rules and regulations; and 50.20.010 Benefit eligibility conditions.

Reasons Why the New Rule is Needed: Congress amended the Social Security Act in 1993. Public Law 103-152 requires all states to implement a systematic approach to identification of those individuals likely to exhaust regular unemployment compensation benefits and in need of reemployment services. Those identified must either be immediately referred to an orientation or placed in a selection pool for later referral. Individuals must participate in services to which they have been referred as a condition of receiving UI benefits. The worker profiling system must be implemented statewide by July 2, 1995.

Goals of New Rule: The goal of the legislation is to provide for early intervention and rapid reemployment for those individuals facing the prospect of long-term unemployment. The regulations will explain the minimum participation requirements and available services for profiled individuals receiving unemployment compensation benefits.

Process for Developing New Rule: The department intends to hold meeting(s) with stakeholders and other interested parties to seek their input regarding the formulation of regulations. This process may include the formation of workgroups or focus groups to draft particular sections of the regulations, policies, and procedures.

How Interested Parties can Participate in Formulation of the New Rule: Persons interested in attending public meetings or participating on a workgroup may contact Felix D'Allesandro, Project Manager, Employment Security Department, Employment and Training Division, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 438-4810 or FAX (360) 438-4846.

WSR 95-01-058
PROPOSED RULES
SOUTHWEST AIR
POLLUTION CONTROL AUTHORITY

[Filed December 14, 1994, 9:57 a.m.]

Original Notice.

Title of Rule: Amends SWAPCA 400 "General Regulations for Air Pollution Sources."

Purpose: Clarify wording of existing regulation.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.151.

Summary: Amends existing SWAPCA 400 to clarify and add explanatory wording.

Reasons Supporting Proposal: This amendment will encourage and enhance voluntary compliance in accordance with EO 94-07 "Executive Order on Regulatory Reform."

Name of Agency Personnel Responsible for Drafting: Lawrence L. Stookey, Southwest Air Pollution Control Authority, Vancouver, (206) 574-3058; Implementation: Paul T. Mairose, Southwest Air Pollution Control Authority, Vancouver, (206) 574-3058; and Enforcement: Robert D. Elliott, Southwest Air Pollution Control Authority, Vancouver, (206) 574-3058.

Name of Proponent: Southwest Air Pollution Control Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule amendment is proposed to clarify existing language in response to public input, to improve the quality of public information, and to increase voluntary compliance by improving the understanding of SWAPCA 400 by the regulated community.

Proposal Changes the Following Existing Rules: The amendment includes addition of explanatory wording and minor editing changes.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The proposed amendment does not add rules or increase the burden on the regulated community, including small businesses.

Hearing Location: Southwest Air Pollution Control Authority, 1308 N.E. 134th Street, Vancouver, WA, on March 21, 1995, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Mary Allen by March 1, 1995, TDD (206) 574-3058, or (206) 574-3058 (voice).

Submit Written Comments to: Paul T. Mairose, FAX (206) 576-0925, by March 1, 1995.

Date of Intended Adoption: March 21, 1995.

December 9, 1994

Robert D. Elliott

Executive Director

SWAPCA 400

General Regulations for Air Pollution Sources

SWAPCA

400-010 Policy and Purpose

400-020 Applicability

400-030 Definitions

400-040 General Standards for Maximum Emissions

400-050 Emissions Standards for Combustion and Incineration Units

400-052 Stack Sampling of Major Combustion Sources

400-060 Emission Standards for General Process Units

400-070 Emission Standards for Certain Source Categories

400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants

400-076 Emission Standards for Sources Emitting Toxic Air Pollutants

400-081 Startup and Shutdown

400-09((9))1 Voluntary Limits on Emissions

400-100 Registration Requirements and Operating Permit((9)) Fees

400-101 Sources Exempt from Registration Requirements

400-105 Records, Monitoring and Reporting

400-107 Excess Emissions

400-109 Notice of Construction

400-110 New Source Review

400-111 Authorization to Operate for Non-Major Sources

400-112 Requirements for New Sources in Nonattainment Areas

400-113 Requirements for New Sources in Attainment or Nonclassifiable Areas

400-114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source

400-115 Standards of Performance for New Sources

400-120 Bubble Rules

400-130 Acquisition and Use of Emission Reduction Credits

400-131 Issuance of Emission Reduction Credits

400-136 Use of Emission Reduction Credits

400-141 Prevention of Significant Deterioration

400-151 Retrofit Requirements for Visibility Protection

400-161 Compliance Schedule

400-171 Public Involvement

400-172 Technical Advisory Council

400-180 Variance

400-190 Requirements for Nonattainment Areas

400-200 Creditable Stack Height and Dispersion Techniques

400-205 Adjustment for Atmospheric Conditions

400-210 Emission Requirements of Prior Jurisdictions

400-220 Requirements for Board Members

400-230 Regulatory Actions & Civil Penalties

400-240 Criminal Penalties

400-250 Appeals

400-260 Conflict of Interest

400-270 Confidentiality of Records and Information

400-280 Powers of Authority

AMENDATORY SECTION

SWAPCA 400-010 Policy and Purpose

(1) It is the policy of the Southwest Air Pollution Control Authority (herein after referred to as the Authority and/or SWAPCA) to maintain such a reasonable degree of purity of the air as will protect human health and safety and to the greatest degree practicable, prevent injury to plant and animal life or to property and be consistent with the economic and industrial well being of the jurisdiction of the Authority.

(2) Pursuant to the U.S. Clean Air Act (42 U.S.C. 7401 et seq.) and the Washington Clean Air ((Washington))Act

(RCW 70.94 (~~RCW~~)), the Authority has adopted regulations for the control of air contaminant emissions, including toxic air contaminants, substances for which primary and secondary National Ambient Air Quality Standards (NAAQS) have been established and volatile organic compounds, to prevent air pollution. In conformance with these laws, the policy of SWAPCA is to control and regulate the emission of air contaminants from sources within the jurisdiction of SWAPCA, to prevent violations of federal, state and local air pollution regulations, to provide uniform administration and enforcement of the aforementioned regulations, and to effectuate the requirements and purpose of Chapter 70.94 Revised Code of Washington (RCW).

AMENDATORY SECTION

SWAPCA 400-020 Applicability

(1) The provisions of this regulation shall apply within Clark, Cowlitz, Lewis, Skamania and Wahkiakum Counties of Washington State.

(2) The Authority is authorized to enforce this regulation and may also adopt standards or requirements. These standards or requirements may not be less stringent than the current state air quality rules and may be more stringent than the current regulations. Unless properly delegated by Ecology, the Authority does not have jurisdiction over the following sources:

(a) Specific source categories over which the State, by separate regulation, has assumed or hereafter assumes jurisdiction.

(b) Automobiles, trucks, aircraft, chemical pulp mills and primary aluminum reduction facilities.

(c) Those sources under the jurisdiction of the Energy Facility Site Evaluation Council (EFSEC) as provided in Washington Administrative Code (WAC) 463.

AMENDATORY SECTION

SWAPCA 400-030 Definitions

Except as provided elsewhere in this regulation the following definitions apply throughout the regulation:

(1) "Actual emissions" means the actual rate of emissions of a pollutant from an emission unit, as determined in accordance with (a) through (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operation. The Authority shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) The Authority may presume that source specific allowable emissions for the unit are equivalent to the actual emissions of the emissions unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emissions unit on that date.

(2) "Adverse impact on visibility" means visibility impairment which interferes with the management, protec-

tion, preservation, or enjoyment of the visitor's visual experience of a Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency, and time of visibility impairment, and how these factors correlate with (a) times of visitor use of the Federal Class I area and (b) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(3) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof. This includes any substance regulated as an air pollutant under WAC 173-460, NESHAPS, Section 112 of the Federal Clean Air Act Amendments or substance for which a primary or secondary National Ambient Air Quality Standard has been established, and volatile organic compounds. "Air pollutant" means the same as "air contaminant".

(4) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities, and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interferes with enjoyment of life and property. For the purposes of this regulation air pollution shall not include air contaminants emitted in compliance with Chapter 17.21 RCW, the Washington Pesticide Application Act, which regulates the application and control of various pesticides.

(5) "Allowable emissions" means the emission rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in 40 CFR Part 60, (~~(a)~~) 61, or 63;

(b) Any applicable State Implementation Plan emission limitation including those with a future compliance date;

(c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date; or

(d) The emission rate specified by an applicable regulatory order.

(6) "Ambient air" means the surrounding outside air.

(7) "Ambient air quality standard" (AAQS) means an established concentration, exposure time, and frequency of occurrence of an air contaminant or multiple air contaminants in the ambient air which shall not be exceeded.

(8) "Authority" means the Southwest Air Pollution Control Authority.

(9) "Best available control technology, (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation under Chapter 70.94 RCW emitted from or which results from any new or modified stationary source, which the Authority, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such sources or modification through application of production processes and available methods, systems, and techniques, including fuel cleaning, clean fuels, or treatment or innovative fuel combustion techniques for control of each such pollutant. In no event shall application

of the "best available control technology" result in emissions of any air pollutants which will exceed the emissions allowed by any applicable standard under 40 CFR Part 60, ~~(and)~~ Part 61, and Part 63 as they exist on ~~(May 7, 1993)~~ February 1, 1995, or their later enactments as adopted by reference by the Authority by rule. Emissions from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under the definition of BACT in the Federal Clean Air Act as it existed prior to enactment of the Clean Air Act Amendments of 1990.

(10) "Best available retrofit technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(11) "Board" means the Board of Directors of the Southwest Air Pollution Control Authority.

(12) "Bubble" means a set of emission limits which allows an increase in emissions from a given emissions unit(s) in exchange for a decrease in emissions from another emissions unit(s), pursuant to RCW 70.94.155, and SWAPCA 400-120.

(13) "Capacity factor" means the ratio of the average load on a machine or equipment for the period of time considered, to the manufacturer's capacity rating of the machine or equipment.

(14) "Class I area" means any area designated pursuant to §§ 162 or 164 of the Federal Clean Air Act as a Class I area. The following areas are the Class I areas potentially affected by emissions from sources within SWAPCA jurisdiction:

- Alpine Lakes Wilderness;
- Glacier Peak Wilderness;
- Goat Rocks Wilderness;
- Mount Adams Wilderness;
- Mount Rainier National Park;
- Mt. Hood Wilderness Area;
- Mt. Jefferson Wilderness Area.

(15) "Closure" means permanently stopping or terminating all processes at a facility. Such termination of processes shall result in no emissions of pollutants to the ambient air. Closure does not mean temporary shutdown of operations. A facility shall be considered "permanently closed" if operations have ceased and registration fees are not paid as set forth in SWAPCA 400-100 (2)(e). Process and pollution control equipment may remain in place and on site but shall be configured such that the equipment or processes are incapable of generating emissions to the atmosphere (e.g. disconnection of power to equipment, mechanical positioning that inhibits processing; placing of padlocks on equipment to prevent operation). Closure of a facility requires notification to SWAPCA in accordance with SWAPCA 400-100 (2)(d). New Source Review and applicable emission control

technology requirements in accordance with current requirements for similar facilities will be required of the facility prior to restart if the annual registration fee is not paid.

(1~~((5))~~6) "Combustion and incineration sources" means emissions units using combustion for waste disposal, steam production, chemical recovery or other process requirements, but excludes open burning.

(1~~((6))~~7) "Commenced construction" means that an owner or operator has all the necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(1~~((7))~~8) "Concealment" means any action taken to reduce the observed or measured concentrations of a pollutant in a gaseous effluent while, in fact, not reducing the total amount of pollutant discharged.

(1~~((8))~~9) "Control Officer" means the Executive Director of the Southwest Air Pollution Control Authority.

~~((19))~~20) "Director" means the director of the Washington State Department of Ecology or duly authorized representative.

(2~~((9))~~1) "Dispersion technique" means a method which attempts to affect the concentration of a pollutant in the ambient air other than by the use of pollution abatement equipment or integral process pollution controls.

(2~~((4))~~2) "Ecology" means the Washington State Department of Ecology.

(2~~((2))~~3) "Emission" means a release of air contaminants into the ambient air.

(2~~((3))~~4) "Emission reduction credit (ERC)" means a credit granted pursuant to SWAPCA 400-131. This is a voluntary reduction in emissions beyond required levels of control. ERCs may be sold, leased, banked for future use or traded in accordance with applicable regulations. Emission reduction credits shall provide an incentive for reducing emissions below the required levels and to establish a framework to promote a market based approach to air pollution control.

(2~~((4))~~5) "Emission standard" and "emission limitation" mean a requirement established under the FCAA or Chapter 70.94 RCW or local regulation which limits the quantity, rate, or concentration of emissions of air contaminants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction and any design, equipment, work practice, or operational standard promulgated under the FCAA or Chapter 70.94 RCW.

(2~~((5))~~6) "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the FCAA, Chapter 70.94 RCW or Chapter 70.98 RCW.

(2~~((6))~~7) "Excess emissions" means emissions of an air pollutant in excess of any applicable emission standard.

(2~~((7))~~8) "Excess stack height" means that portion of a stack which exceeds the greater of sixty-five meters (213.25

feet) or the calculated stack height described in SWAPCA 400-200(2).

(2)((8))~~9~~ "Executive Director" means the Control Officer of the Southwest Air Pollution Control Authority.

((29))~~30~~ "Existing stationary facility" means a stationary source of air pollutants which has the potential to emit two hundred fifty tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted. For purposes of determining whether a stationary source is an existing stationary facility the term "building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities shall be considered as part of the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual*, 19((72))~~87~~ ((~~as amended by the 1977 Supplement~~)).

(3)((4))~~1~~ "Federal Clean Air Act (FCAA)" means the Federal Clean Air Act, also known as Public Law 88-206, Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(3)((+))~~2~~ "Federal land manager" means, with respect to any lands in the United States, the Secretary of the department with authority over such lands.

(3)((2))~~3~~ "Fossil fuel-fired steam generator" means a device, furnace, or boiler used in the process of burning fossil fuel for the primary purpose of producing steam by heat transfer.

(3)((3))~~4~~ "Fugitive dust" means a type of particulate emission made airborne by forces of wind, human activity, or both. Unpaved roads, construction sites, and tilled land are examples of areas that originate fugitive dust. Fugitive dust is a type of fugitive emission.

(3)((4))~~5~~ "Fugitive emissions" means emissions which do not pass and which could not reasonably be collected to pass through a stack, chimney, vent, or other functionally equivalent opening.

(3)((5))~~6~~ "General process unit" means an emissions unit using a procedure or a combination of procedures for the purpose of causing a change in material by either chemical or physical means, excluding combustion.

(37) "Good agricultural practices" means economically feasible practices which are customary among or appropriate to farms and ranches of a similar nature in the local area.

(3)((6))~~8~~ "Good engineering practice (GEP)" refers to a calculated stack height based on the equation specified in SWAPCA 400-200 (2)(a)(ii).

(3)((7))~~9~~ "Incinerator" means a furnace used primarily for the thermal destruction of waste.

((38))~~40~~ "In operation" means engaged in activity related to the primary design function of the source.

((39))~~41~~ "Integral vista" means a view perceived from within a mandatory Class I federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I federal area.

(4)((9))~~2~~ "Lowest achievable emission rate (LAER)" means for any source that rate of emissions which reflects the more stringent of:

(a) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed new or modified source demonstrates that such limitations are not achievable; or

(b) The most stringent emission limitation which is achieved in practice by such class or category of source. In no event shall the application of this term permit a proposed new or modified source to emit any pollutant in excess of the amount allowable under applicable new source performance standards.

(4)((+))~~3~~ "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Federal Clean Air Act. Any net emissions increase that is considered significant for volatile organic compounds or oxides of nitrogen shall be considered significant for ozone. A physical change or change in the method of operation shall not include:

(a) Routine maintenance, repair, and replacement;

(b) Use of an alternative fuel or raw material by reason of an order under sections 2 (a) and (b) of the Energy Supply and Environmental Supply Coordination Act of 1974 (or any superseding legislation) or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;

(c) Use of an alternative fuel by reason of an order or rule under section 125 of the FCAA, 42 U.S.C. 7425;

(d) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

(e) Use of an alternative fuel or raw material by a stationary source which:

(i) The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any federally enforceable permit condition which was established after December 12, 1976, in a Prevention of Significant Deterioration permit or an Order of Approval for a Notice of Construction ((approval)) application; or

(ii) The source is approved to use under any federally enforceable notice of construction approval or a PSD permit issued by the Environmental Protection Agency;

(f) An increase in the hours of operation or in the production rate, unless such change is prohibited under any federally enforceable permit condition which was established after December 21, 1976, in a Prevention of Significant Deterioration permit or an Order of Approval for a Notice of Construction ((approval)) application;

(g) Any change in ownership at a stationary source.

(4)((2))~~4~~ "Major stationary source" means:

(a) Any stationary source which:

(i) Emits or has the potential to emit one hundred tons per year or more of any air contaminant regulated by the Washington State or Federal Clean Air Acts;

(ii) Is located in a "marginal" or "moderate" ozone nonattainment area and which emits or has the potential to emit one hundred tons per year or more of volatile organic compounds or oxides of nitrogen;

(iii) Is located in a "serious" carbon monoxide nonattainment area where stationary sources contribute significantly to carbon monoxide levels and which emits or has the

potential to emit fifty tons per year or more of carbon monoxide; or

(iv) Is located in a "serious" particulate matter (PM₁₀) nonattainment area and which emits or has the potential to emit seventy tons per year or more of PM₁₀ emissions.

(b) Any physical change that would occur at a stationary source not qualifying under (a) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself;

(c) A major stationary source that is major for VOCs or NO_x shall be considered major for ozone;

(d) The fugitive emissions of a stationary source shall not be included in determining whether it is a major stationary source, unless the stationary source belongs to one of the following categories of stationary sources or the source is a major stationary source due to (a)(iii) or (iv) of this subsection:

- (i) Coal cleaning plants (with thermal dryers);
 - (ii) Kraft pulp mills;
 - (iii) Portland cements plants;
 - (iv) Primary zinc smelters;
 - (v) Iron and steel mills;
 - (vi) Primary aluminum ore reduction plants;
 - (vii) Primary copper smelters;
 - (viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
 - (ix) Hydrofluoric, sulfuric, or nitric acid plants;
 - (x) Petroleum refineries;
 - (xi) Lime plants;
 - (xii) Phosphate rock processing plants;
 - (xiii) Coke oven batteries;
 - (xiv) Sulfur recovery plants;
 - (xv) Carbon black plants (furnace process);
 - (xvi) Primary lead smelters;
 - (xvii) Fuel conversion plants;
 - (xviii) Sintering plants;
 - (xix) Secondary metal production plants;
 - (xx) Chemical process plants;
 - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
 - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels (12,600,000 gallons);
 - (xxiii) Taconite ore processing plants;
 - (xxiv) Glass fiber processing plants;
 - (xxv) Charcoal production plants;
 - (xxvi) Fossil fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; and
 - (xxvii) Any other stationary source category which, as of August 7, 1980, was being regulated under sections 111 or 112 of the Federal Clean Air Act.
- (e) For purposes of determining whether a stationary source is a major stationary source, the term "building, structure, facility, or installation" means all the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the

same two digit code) as described in the *Standard Industrial Classification Manual*, 19((72))87 ((~~as amended by the 1977 Supplement~~)).

(4((3))5) "Mandatory Class I federal area" means any area defined in Section 162(a) of the FCAA. The mandatory Class I federal areas potentially affected by emissions from sources within SWAPCA jurisdiction are as follows:

- Alpine Lakes Wilderness;
- Glacier Peak Wilderness;
- Goat Rocks Wilderness;
- Mount Adams Wilderness;
- Mount Rainier National Park;
- Mt. Hood Wilderness Area;
- Mt. Jefferson Wilderness Area.

(4((4))6) "Masking" means the mixing of a chemically nonreactive control agent with a malodorous gaseous effluent to change the perceived odor, usually to a less offensive odor.

(4((5))7) "Materials handling" means the handling, transporting, loading, unloading, storage, and transfer of materials with no significant alteration of the chemical or physical properties of the material.

(4((6))8) "Modification" means any physical change in, or change in the method of operation of, a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emissions of any air contaminant not previously emitted. The term modification shall be construed consistent with the definitions of modification in Section 7411, Title 42, United States Code, and with rules implementing that section.

(4((7))9) "National Emission Standards for Hazardous Air Pollutants (NESHAPS)" means the federal regulations set forth in 40 CFR Part 61 or Part 63.

((48))50) "Natural conditions" means naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

((49))51) "Net emissions increase" means:

(a) The amount by which the sum of the following exceeds zero:

(i) Any increase in actual emissions from a particular change or change in method of operation at a source; and

(ii) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(b) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if the changes in actual emissions occur between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs.

(c) An increase or decrease in actual emissions is creditable only if:

(i) It occurred no more than one year prior to the date of submittal of a complete Notice of Construction application for the particular change, or it has been documented by an emission reduction credit, in which case the credit shall expire ten years after the date of original issue of the ERC. Any emissions increases occurring between the date of issuance of the ERC and the date when a particular change becomes operational shall be counted against the ERC.

(ii) The Authority or Ecology has not relied on it in issuing any permit or Order of Approval for the source under

regulations approved pursuant to 40 CFR 51 Subpart I or the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21, which order or permit is in effect when the increase in emissions from the particular change occurs.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is federally enforceable at and after the time that actual construction on the particular change begins;

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change; and

(iv) The Authority has not relied on it in issuing any permit, regulatory order or Order of Approval under regulations approved pursuant to 40 CFR 51 Subpart I, the EPA has not relied on it in issuing a PSD permit pursuant to 40 CFR 52.21 or Ecology or the Authority has not relied on it in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emission unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty days.

(5((0))2) "New source" means one or more of the following:

(a) The construction or modification of a stationary source that increases the amount of any air contaminant emitted by such source or that results in the emission of any air contaminant not previously emitted;

(b) Any other project that constitutes a new source under the Federal Clean Air Act; ~~((0))~~

(c) Restart after a lapse in one year or more in payment of registration fees or operating permit fees;

(d) Restart after a period of five years of non-operation where registration or operating permit fees have been paid.

(5((4))3) "New Source Performance Standards (NSPS)" means the federal regulations set forth in 40 CFR Part 60 and adopted by the Authority in SWAPCA 400-115.

(5((2))4) "Nonattainment area" means a clearly delineated geographic area which has been designated by EPA promulgation as exceeding a National Ambient Air Quality Standard or standards.

(5((3))5) "Notice of Construction application (NOC)" means a written application ~~((to request))~~ from the source by which the Authority records and tracks requests from registered and nonregistered sources for the purpose of obtaining information regarding proposed changes or activities at a source. Types of changes may include modifications, alterations, changes to process or control equipment, establishment of emission limits, installation of new sources, control technology determinations, PSD determinations and other items specified by the Authority. A Notice of Construction application shall be submitted to the Authority for review and approval ~~((for))~~ prior to construction of a new source, modification of an existing stationary source or replacement or substantial alteration of

control technology at an existing stationary source or portable source. A Notice of Construction application may be submitted to the Authority for activities not requiring New Source Review and shall not automatically impose New Source Review requirements. (For more information refer to SWAPCA 400-109.)

(5((4))6) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage.

(5((5))7) "Open burning" means the combustion of material in an open fire or in an outdoor container, without providing for the control of combustion or the control of the emissions from the combustion. Open burning includes all forms of outdoor burning except those listed as exempt in SWAPCA 425-020. Wood waste disposal in wigwam burners is not considered open burning.

(5((6))8) "Order" or Regulatory Order means any order issued by the Authority pursuant to Chapter 70.94 RCW, including, but not limited to RCW 70.94.332, 70.94.152, 70.94.153 and 70.94.141(3), and includes but is not limited to, where used in the generic sense, the terms order, corrective action order, order of approval, compliance schedule order, consent order, order of denial, order of violation, order of prevention, order of discontinuance, order of authorization to operate, administrative order, and regulatory order.

(5((7))9) "Order of Approval" and "Approval Order" mean a regulatory order issued by the Authority to approve the Notice of Construction application for a proposed new source or modification, or the replacement or substantial alteration of control technology at an existing stationary source or portable source. Note: For more information refer to SWAPCA 400-230 (1)(a).

((58))60) "Particulate matter" or "particulates" means any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

((59))61) "Particulate matter emissions" means all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR Part 60 or by a test method specified in the Washington State Implementation Plan.

(6((0))2) "Parts per million (ppm)" means parts of a contaminant per million parts of gas or carrier medium, by volume. When calculating or measuring the ppm of a given gas or carrier stream, such measurement or calculation shall be exclusive of water and particulate matter.

(6((4))3) "Person" means an individual, firm, public or private corporation, association, partnership, political subdivision, municipality, or government agency.

(6((2))4) "PM₁₀" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by a reference method based on 40 CFR Part 50 Appendix J and designated in accordance with 40 CFR Part 53 or by an equivalent method designated in accordance with 40 CFR Part 53.

(6((3))5) "PM₁₀ emissions" means finely divided solid or liquid material, including condensable particulate matter, with an aerodynamic diameter less than or equal to a nominal 10 micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternate method, specified in Appendix M of 40 CFR Part 51 or by a test method specified in the Washington State Implementation Plan.

~~6((4))6~~ "Potential to emit" means the maximum capacity (i.e., design capacity) of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

~~6((5))7~~ "Prevention of Significant Deterioration (PSD)" means the program set forth in SWAPCA 400-141 and WAC 173-400-141.

~~6((6))8~~ "Projected width" means that dimension of a structure determined from the frontal area of the structure, projected onto a plane perpendicular to a line between the center of the stack and the center of the building.

~~6((7))9~~ "Reasonably attributable" means attributable by visual observation or any other technique the Authority deems appropriate.

~~(((68))70~~ "Reasonably available control technology (RACT)" means the lowest emission limit that a particular source or source category is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. RACT is determined on a case-by-case basis for an individual source or source category taking into account the impact of the source upon air quality, the availability of additional controls, the emission reduction to be achieved by additional controls, the impact of additional controls on air quality, and the capital and operating costs of the additional controls. RACT requirements for any source or source category shall be adopted only after public notice and opportunity for comment are afforded. RACT shall apply to existing sources.

~~(((69))71~~ "Regulatory order" means an order issued by the Authority to an air contaminant source which applies to that source, any applicable provision of Chapter 70.94 RCW, or the rules adopted thereunder, or, the regulations of the Authority. Note: For further clarification refer also to the definition of Order and Order of Approval and SWAPCA 400-230.

~~7((0))2~~ "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emission equal to or greater than any one of the following rates:

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate matter (PM)	25
Fine particulate matter (PM ₁₀)	15
Volatile organic compounds (VOC)	40
Lead	0.6
Fluorides	3
Sulfuric acid mist	7
Hydrogen sulfide (H ₂ S)	10
Total reduced sulfur (including H ₂ S)	10

Municipal waste combustor organics (measured as total tetra-through octa-chlorinated dibenzo-p-dioxins and dibenzofurans)	0.0000035
Municipal waste combustor metals (measured as PM)	15
Municipal waste combustor acid gases (measured as SO ₂ and hydrogen chloride)	40

~~7((+))3~~ "Significant visibility impairment" means visibility impairment which interferes with the management, protection, preservation, or enjoyment of visitor visual experience of a Class I area as defined in Section 162(a) of the FCAA. The determination must be made on a case-by-case basis, taking into account the geographic extent, intensity, duration, frequency, and time of the visibility impairment, and how these factors correlate with the time of visitor use of the Class I area and frequency and timing of natural conditions that reduce visibility.

~~7((2))4~~ "Source" means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous and adjacent properties, and are under the control of the same person (or persons under common control), whose activities are ancillary to the production of a single product or functionally related groups of products. Activities shall be considered ancillary to the production of a single product or functionally related group of products if they belong to the same major group (i.e., which have the same two digit code) as described in the *Standard Industrial Classification Manual*, 19~~((72))87~~~~((as amended by the 1977 Supplement))~~.

~~7((3))5~~ "Source category" means all sources of the same type or classification as described in the *Standard Industrial Classification Manual*, 19~~((72))87~~~~((as amended by the 1977 Supplement))~~.

~~7((4))6~~ "Southwest Air Pollution Control Authority (SWAPCA)" or "Authority" means the local air pollution agency empowered to enforce and implement the Federal Clean Air Act (42 U.S.C. 7401, et seq.) and the Clean Air Washington Act (RCW 70.94) in Clark, Cowlitz, Lewis, Skamania and Wahkiakum Counties of Washington State.

~~7((5))7~~ "Stack" means any emission point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct.

~~7((6))8~~ "Stack height" means the height of an emission point measured from the ground-level elevation at the base of the stack.

~~7((7))9~~ "Standard conditions" means a temperature of 20 degrees C (68 degrees F) and a pressure of 29.92 inches (760 mm) of mercury except as otherwise specified.

~~(((78))80~~ "State Implementation Plan, (SIP)" means a comprehensive plan developed/prepared by the Washington State Department of Ecology with assistance from the Southwest Air Pollution Control Authority, other regional air pollution control authorities and other interested planning and governing entities, and submitted to EPA for approval, which provides for implementation, maintenance and enforcement of the primary and secondary National Ambient Air Quality Standards.

~~(((79))81~~ "Stationary source" means any building, structure, facility, or installation which emits or may emit

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any contaminant. This term does not include emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road engine or non-road vehicle as defined in Section 216 of the FCAA.

(8((0))2) "Sulfuric acid plant" means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, or acid sludge.

(8((4))3) "Total reduced sulfur, (TRS)" means the sum of the sulfur compounds hydrogen sulfide, mercaptans, dimethyl sulfide, dimethyl disulfide, and any other organic sulfides emitted and measured by EPA Method 16 or an approved equivalent method and expressed as hydrogen sulfide.

(8((2))4) "Total suspended particulate" means particulate matter as measured by the method described in 40 CFR Part 50 Appendix B as in effect on July 1, 1992.

(8((3))5) "United States Environmental Protection Agency, (USEPA)" shall be referred to as EPA.

(86) "Upgraded" is defined only for gasoline dispensing facilities and means the modification of a gasoline storage tank or piping to add cathodic protection, tank lining or spill and overflow protection that involved removal of ground or ground cover above a portion of the product piping. "Modification" of a gasoline dispensing facility means the same as "upgraded".

(8((4))7) "Visibility impairment" means any perceptible degradation in visibility (visual range, contrast, coloration) not caused by natural conditions.

(8((5))8) "Visibility impairment of Class I areas" means visibility impairment within the area and visibility impairment of any formally designated integral vista associated with the area.

(8((6))9) "Volatile organic compound (VOC)" means:

(a) Any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions. This includes any organic compound other than the following, which have negligible photochemical activity: Methane; ethane; methylene chloride (dichloromethane); 1,1,1-trichloroethane (methyl chloroform); 1,1,1-trichloro 2,2,2-trifluoroethane (CFC-113); trichlorofluoromethane (CFC-11); dichlorodifluoromethane (CFC-12); chlorodifluoromethane (CFC-22); trifluoromethane (FC-23); 1,1,2,2-tetrafluoroethane (CFC-114); chloropentafluoroethane (CFC-115); 1,1,1-trifluoro 2,2-dichloroethane (HCFC-123); 1,1,1,2-tetrafluoroethane (HFC-134a); 1,1-dichloro 1-fluoroethane (HCFC-141b); 1-chloro 1,1-difluoroethane (HCFC-142b); 2-chloro 1,1,1,2-tetrafluoroethane (HCFC-124); pentafluoroethane (HFC-125); 1,1,2,2-tetrafluoroethane (HFC-134); 1,1,1-trifluoroethane (HFC-143a); 1,1-difluoroethane (HFC-152a); and perfluorocarbon compounds which fall into these classes:

(i) Cyclic, branched, or linear completely fluorinated alkanes;

(ii) Cyclic, branched, or linear completely fluorinated ethers with no unsaturations; and

(iii) Sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine.

(b) For the purpose of determining compliance with emission limits, VOCs will be measured by the appropriate

methods in 40 CFR Part 60 Appendix A. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive compounds may be excluded as VOC.

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

SWAPCA 400-040 General Standards for Maximum Emissions

All sources and emissions units are required to meet the emission standards of this section. Where an emission standard listed in another section is applicable to a specific emissions unit, such standard shall take precedent over a general emission standard listed in this section. When two or more emissions units are connected to a common stack and the operator elects not to provide the means or facilities to sample emissions from the individual emissions units, and the relative contributions of the individual emissions units to the common discharge are not readily distinguishable, then the emissions of the common stack must meet the most restrictive standard of any of the connected emissions units. Further, all emissions units are required to use reasonably available control technology (RACT) which may be determined for some sources or source categories to be more stringent than the applicable emission limitations of this regulation or any chapter of Title 173 WAC. Where current controls are determined to be less than RACT, the Authority shall, as provided in (~~Section 8, Chapter 252, Washington State Laws of 1993~~) RCW 70.94.154, define RACT for each source or source category and issue a rule or regulatory order requiring the installation of RACT.

(1) **Visible emissions.** No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contaminant from any emissions unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity as determined by certified observer in accordance with EPA Method 9 "Visual Determination of the Opacity of Emissions from Stationary Sources" as specified in 40 CFR 60 Appendix A except:

(a) When the emissions occur due to soot blowing/grate cleaning and the operator can demonstrate that the emissions will not exceed twenty percent opacity for more than fifteen minutes in any eight consecutive hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary to the operation of boiler facilities. This practice, except for testing and trouble shooting, is to be scheduled for the same approximate times each day and the Authority shall be advised of the schedule.

(b) When the owner or operator of a source supplies valid data to show that the presence of uncombined water is the only reason for the opacity to exceed twenty percent.

(c) When two or more sources are connected to a common stack, the Authority may allow or require the use of an alternate time period if it is more representative of normal operations.

(d) When an alternate opacity limit has been established per RCW 70.94.331 (2)(c).

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(2) **Fallout.** No person shall cause or permit the emission of particulate matter from any source to be deposited beyond the property under direct control of the owner(s) or operator(s) of the source in sufficient quantity to interfere unreasonably with the use and enjoyment of the property upon which the material is deposited.

(3) **Fugitive emissions.** The owner or operator of any emissions unit engaging in materials handling, construction, demolition or any other operation which is a source of fugitive emission:

(a) If located in an attainment area and not impacting any nonattainment area, shall take reasonable precautions to prevent the release of air contaminants from the operation.

(b) If the emissions unit has been identified as a significant contributor to the nonattainment status of a designated nonattainment area, shall be required to use reasonable and available control methods, which shall include any necessary changes in technology, process, or other control strategies to control emissions of the contaminants for which nonattainment has been designated.

(4) **Odors.**

(a) Any person who shall cause or allow the generation of any odor from any source, which may unreasonably interfere with any other property owner's use and enjoyment of his property must use recognized good practice and procedures to reduce these odors to a reasonable minimum.

(b) A scentometer No. 1 odor strength or equivalent dilution in residential and commercial areas shall not be exceeded.

(c) A scentometer No. 3 odor strength or equivalent dilution in all other land use areas shall not be exceeded.

Scentometer Readings

Scentometer No.	Concentration Range No. of Thresholds
0	1 to 2
1	2 to 8
2	8 to 32
3	32 to 128
4	128

(d) A violation of this section shall have occurred when two measurements made within a period of one (1) hour, separated by at least fifteen (15) minutes, off the property surrounding the air contaminant source exceeds the scentometer limitations set hereunder.

(e) When the source is a manufacturing process, no violation of this section shall have occurred provided that Best Available Control Technology (BACT), Maximum Available Control Technology (MACT), or Lowest Achievable Emission Rate (LAER), as applicable, is provided and is operating in compliance with other applicable regulations and emission limits.

(f) When the source is using "good agricultural practices", as provided in RCW 70.94.640, no violation of this section shall have occurred.

(5) **Emissions detrimental to persons or property.** No person shall cause or permit the emission of any air contaminant from any source if it is detrimental to the health, safety, or welfare of any person, or causes damage to property or business.

(6) **Sulfur dioxide.**

No person shall cause or permit the emission of a gas containing sulfur dioxide from any emissions unit in excess of one thousand ppm of sulfur dioxide on a dry basis, corrected to seven percent oxygen or twelve percent CO₂ as required by the applicable emission standard for combustion sources, and based on the average of any period of sixty consecutive minutes, except:

(a) When the owner or operator of an emissions unit supplies emission data and can demonstrate to the Authority that there is no feasible method of reducing the concentration to less than one thousand ppm (on a dry basis, corrected to seven percent oxygen for combustion sources) and that the state and federal ambient air quality standards for sulfur dioxide will not be exceeded. In such cases, the Authority may require specific ambient air monitoring stations be established, operated, and maintained by the owner or operator at mutually approved locations. All sampling results shall be made available upon request and a monthly summary shall be submitted to the Authority.

(b) When a source limits such emission by a combination of constant emission controls and dispersion techniques approved by the authority.

(7) **Concealment and masking.** No person shall cause or permit the installation or use of any means which conceals or masks an emission of an air contaminant which would otherwise violate any provisions of this section.

(8) **Fugitive dust sources.**

(a) The owner or operator of a source of fugitive dust shall take reasonable precautions to prevent fugitive dust from becoming airborne and shall maintain and operate the source to minimize emissions.

(b) The owner(s) or operator(s) of any existing source(s) of fugitive dust that has been identified as a significant contributor to a PM₁₀ nonattainment area shall be required to use reasonably available control technology (RACT) to control emissions. Significance will be determined by the criteria found in SWAPCA 400-113(3).

AMENDATORY SECTION

SWAPCA 400-050 Emission Standards for Combustion and Incineration Units

(1) Combustion and incineration emissions units shall meet all requirements of SWAPCA 400-040 and, in addition, no person shall cause or permit emissions of particulate matter in excess of 0.23 gram per dry cubic meter at standard conditions (0.1 grain/dscf), except, for an emissions unit combusting wood derived fuels for the production of steam. No person shall allow or permit the emission of particulate matter from an emissions unit combusting wood derived fuels in excess of 0.46 gram per dry cubic meter at standard conditions (0.2 grain/dscf), as measured by EPA Method 5 or other acceptable sampling methods approved in advance by the Authority (~~including but not limited to procedures contained in "Source Test Manual - Procedures For Compliance Testing", State of Washington, Department of Ecology, as of July 12, 1990, on file at the Authority).~~)

(2) For any incinerator, no person shall cause or permit emissions in excess of one hundred ppm of total carbonyls as measured by applicable sampling methods or other acceptable procedures approved in advance by the Authority including but not limited to those methods contained in

"Source Test Manual - Procedures for Compliance Testing", State of Washington, Department of Ecology, on file at the Authority. Incinerators shall be operated only during daylight hours unless written permission to operate at other times is received from the Authority.

(3) Measured concentrations for combustion and incineration sources shall be adjusted in accordance with the following listing. Source categories not identified shall have measured concentrations for volumes corrected to seven percent oxygen, except when the Authority determines that an alternate oxygen correction factor is more representative of normal operations. Concentrations for the following sources shall normally be adjusted to the following oxygen concentrations: gas, diesel, & oil fired boilers: 3%; medical/hospital waste incinerators: 12%; natural gas turbines: 15%.

SWAPCA 400-052 Stack Sampling of Major Combustion Sources

(1) **General Requirements.** No owner or operator of a major source which is also a combustion or incineration source shall operate the source except in compliance with the requirements of this section.

(2) **Applicability.** All sources that are designated as major as a result of the operation of a combustion or incineration unit (or units) where the combined emissions of a single pollutant from the combustion or incineration unit (or units) are 100 tons per year or more of oxides of nitrogen, carbon monoxide, particulate matter, sulfur dioxide or volatile organic compounds.

(3) **Emissions Sampling Requirements.** The owner or operator of a major combustion or incineration source identified in (2) shall cause or conduct emissions tests at least once every two calendar years to quantify emissions of the pollutants for which the source has been designated major. In the event that the combined emissions of a single pollutant from several emissions units establishes the source as major, emissions tests shall be conducted at least once every two calendar years for all emissions units which emit 30 percent or more of the emissions of the pollutant for which the source has been designated major.

(4) **Sampling Methods.** All emissions tests shall be conducted in accordance with the specific test methods approved in advance by the Authority.

(5) **Additional Requirements.** Nothing in this section shall be construed as to limit the ability of the Authority to impose additional or supplemental emissions testing requirements for any emissions unit within the Authority's jurisdiction in accordance with SWAPCA 400-105(4).

(6) **Alternative Sampling Schedules.** The Authority may on a case-by-case basis, accept or require an alternative emissions sampling schedule provided sufficient source-specific sampling data exists to adequately demonstrate that the source is capable of continuous compliance with any emission standards that are applicable to the source. Alternative sampling schedules shall be based upon measured emissions relative to the applicable emissions limitation. The Authority may reduce the frequency of the required emissions testing.

(7) **Continuous Emissions Monitors.** The use of continuous emissions monitors shall be acceptable as an alternative emissions sampling schedule.

AMENDATORY SECTION

SWAPCA 400-060 Emission Standards for General Process Units

General process units shall meet all applicable provisions of SWAPCA 400-040 and, no person shall cause or permit the emission of particulate material from any general process operation in excess of 0.23 grams per dry cubic meter at standard conditions (0.1 grain/dscf) of exhaust gas. EPA test methods from 40 CFR Appendix A which are adopted by reference and any other appropriate test procedures approved in advance by the Authority (~~including but not limited to the methods and procedures contained in Ecology's "Source Test Manual - Procedures For Compliance Testing" as of July 12, 1990,~~) shall be used to determine compliance.

AMENDATORY SECTION

SWAPCA 400-070 Emission Standards for Certain Source Categories

The Authority finds that the reasonable regulation of sources within certain categories requires separate standards applicable to such categories. The standards set forth in this section shall be the maximum allowable standards for emissions units within the categories listed. (~~Except as specifically provided in this section, such emissions units shall not be required to meet the provisions of SWAPCA 400-040, SWAPCA 400-050 and SWAPCA 400-060.~~)

(1) Wigwam burners.

(a) The use of wigwam ("tee-pee", "conical", or equivalent type) burners is prohibited effective January 1, 1994.

(2) Hog fuel boilers.

(a) Hog fuel boilers shall meet all provisions of SWAPCA 400-040 and SWAPCA 400-050(1), except that emissions may exceed twenty percent opacity for up to fifteen consecutive minutes once in any eight hours. The intent of this provision is to permit the soot blowing and grate cleaning necessary for efficient operation of these units. This practice is to be scheduled for the same specific times each day and the Authority shall be notified of the schedule or any changes.

(b) All hog fuel boilers shall utilize RACT and shall be operated and maintained to minimize emissions.

(3) Orchard heating.

(a) Burning of rubber materials, asphaltic products, crankcase oil or petroleum wastes, plastic, or garbage is prohibited.

(b) It is unlawful to burn any material or operate any orchard-heating device that causes a visible emission exceeding twenty percent opacity, except during the first thirty minutes after such device or material is ignited.

~~((4) Grain elevators. Any grain elevator which is primarily classified as a materials handling operation shall meet all the provisions of SWAPCA 400-040 (1), (2), (3), (4), (5) and (8)).~~

~~((5))4 Catalytic cracking units.~~

(a) All existing catalytic cracking units shall meet all provisions of SWAPCA 400-040 ~~((1), (2), (3), (4), (5), (6), (7) and (8))~~:

(i) No person shall cause or permit the emission for more than three minutes, in any one hour, of an air contam-

inant from any catalytic cracking unit which at the emission point, or within a reasonable distance of the emission point, exceeds twenty percent opacity.

(ii) No person shall cause or permit the emission of particulate material in excess of 0.46 grams per dry cubic meter at standard conditions (0.20 grains/dscf) of exhaust gas.

(b) All new catalytic cracking units shall install BACT which may be more stringent than the provisions of SWAPCA 400-115.

~~((6) Other wood waste burners.~~

~~(a) Wood waste burners not specifically provided for in this section shall meet all provisions of SWAPCA 400-040.~~

~~(b) Such wood waste burners shall utilize RACT and shall be operated and maintained to minimize emissions.)~~

~~((7)5) Sulfuric acid plants.~~ No person shall cause to be discharged into the atmosphere from a sulfuric acid plant, any gases which contain acid mist, expressed as H₂SO₄, in excess of 0.15 pounds per ton of acid produced. Sulfuric acid production shall be expressed as one hundred percent H₂SO₄.

(6) Gasoline dispensing facilities. All gasoline dispensing facilities shall meet all the provisions of SWAPCA 400-110(8) and SWAPCA 491 "Emission Standards and Controls for Sources Emitting Gasoline Vapors".

(7) Abrasive blasting.

(a) Abrasive blasting shall be performed inside a booth or structure designed to capture the blast grit, overspray, and removed material except that outdoor blasting of structures or items too large to be reasonably handled indoors or in an enclosure shall employ control measures such as curtailment during windy periods, wet blasting, and/or enclosure of the area being blasted with tarps.

(b) Outdoor blasting shall be performed with either steel shot or an abrasive material containing less than one percent (by mass) which would pass through a No. 200 sieve.

(c) All abrasive blasting with sand shall be performed inside a blasting booth, enclosure or structure designed to capture fugitive particulate matter.

(d) All abrasive blasting of materials that have a coating or that may contain a substance that is identified as a toxic air pollutant in WAC 173-460 or a hazardous substance shall be analyzed prior to blast operations. If a toxic or hazardous material is present in the blast media or removed media, all material shall be handled and disposed of in accordance with applicable regulations.

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

NEW SECTION

SWAPCA 400-074 Gasoline Transport Tankers

(1) Each owner(s) and/or operator(s) of a gasoline transport tank doing business within the designated ozone non-attainment area of SWAPCA jurisdiction shall register the transport tank with SWAPCA prior to being placed into service. Such registration shall be made annually with SWAPCA.

(2) Each registered gasoline transport tanker shall pay an annual registration fee in accordance with the schedule provided in SWAPCA 400-100 (3)(a)(i). Each transport

tanker shall have its own registration sticker, certification test and shall be assessed a separate registration fee.

(3) Prior to registration, SWAPCA shall review the leak test certification documentation from the testing company required under SWAPCA 490-202(3). Upon demonstration of a successful leak test and payment of registration fees, SWAPCA shall issue a registration sticker that shall be applied to the tanker.

(4) The owner(s) and/or operator(s) of a gasoline loading or unloading facility shall only allow the transfer of gasoline between the facility and a transport tank when a current leak test certification for the transport tank is on file with the facility or a valid SWAPCA registration sticker is displayed on the tank(s).

(5) Each owner(s) and/or operator(s) of a petroleum product transport tank doing business within SWAPCA jurisdiction shall notify SWAPCA of a change in status of a tanker. Change in status shall include sale, operating only out of SWAPCA jurisdiction, out of service, or other similar change. Such notification shall be made in writing to SWAPCA within 10 days of the change of status.

AMENDATORY SECTION

SWAPCA 400-075 Emission Standards for Sources Emitting Hazardous Air Pollutants

(1) The emission standards for hazardous air pollutants promulgated by the United States Environmental Protection Agency (USEPA) as in effect February 1((6)), 199((3))5, as contained in Title 40, Code of Federal Regulations, Part 61 and Part 63, are adopted by reference. The term "Administrator" in 40 CFR Part 61 shall mean the Administrator of EPA, the Director of Ecology and the Control Officer of the Authority.

(2) The Authority may require that source tests be conducted (~~conduct source tests~~) and require access to records, books, files, and other information specific to the control, recovery or release of those pollutants regulated under 40 CFR Part 61 and/or Part 63 in order to determine the status of compliance of sources of these contaminants and to carry out its enforcement responsibilities.

(3) Source testing, monitoring, and analytical methods for sources of hazardous air pollutants shall conform with the requirements of Title 40, Code of Federal Regulations, Part 61 and/or Part 63, as in effect February 1((6)), 199((3))5.

(4) This section shall not apply to any source operating pursuant to a waiver granted by EPA or an exemption granted by the President of the United States during the effective life of such waiver or exemption.

(5) Specific standards of performance referred to as Maximum Achievable Control Technology (MACT) have been promulgated by the USEPA. As of February 1, 1995 the following standards of performance as set forth in 40 CFR 63 are hereby adopted by reference:

<u>Subpart A</u>	<u>National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions (40 CFR 63.1 et seq.)</u>
<u>Subpart B</u>	<u>National Emission Standards for Hazardous Air Pollutants for Source Categories: Equivalent Emission Limitation By Permit (ref. 40 CFR 63.50 et seq.)</u>

<u>Subpart D</u>	<u>National Emission Standards for Hazardous Air Pollutants for Source Categories: Early Reduction Program (ref. 40 CFR 63.70 et seq.)</u>
<u>Subpart F</u>	<u>National Emission Standards for Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry (ref. 40 CFR 63.100 et seq.)</u>
<u>Subpart G</u>	<u>National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater (ref. 40 CFR 63.110 et seq.)</u>
<u>Subpart H</u>	<u>National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks (ref. 40 CFR 63.160 et seq.)</u>
<u>Subpart I</u>	<u>National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks (ref. 40 CFR 60.190 et seq.)</u>
<u>Subpart L</u>	<u>National Emission Standards for Hazardous Air Pollutants for Coke Oven Operations (ref. 40 CFR 63.300 et seq.)</u>
<u>Subpart M</u>	<u>National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities (ref. 40 CFR 63.320 et seq.)</u>
<u>Subpart N</u>	<u>National Emission Standards for Hazardous Air Pollutants from Hard and Decorative Electroplating and Anodizing Operations (ref. 40 CFR 63.340 et seq.)</u>
<u>Subpart O</u>	<u>National Ethylene Oxide Air Emission Standards for Commercial Sterilizers (ref. 40 CFR 63.360 et seq.)</u>
<u>Subpart R</u>	<u>National Emission Standards for Hazardous Air Pollutants for Gasoline Distribution Operations (Stage I) (ref. 40 CFR 63.420 et seq.)</u>
<u>Subpart Q</u>	<u>National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers (ref. 40 CFR 63.400 et seq.)</u>
<u>Subpart T</u>	<u>National Emission Standards for Hazardous Air Pollutants for Halogenated Solvents Cleaning Operations (ref. 40 CFR 63.460 et seq.)</u>
<u>Subpart EE</u>	<u>National Emission Standards for Hazardous Air Pollutants for Magnetic Tape Manufacturing Operations (ref. 40 CFR 63.710 et seq.)</u>

NEW SECTION**SWAPCA 400-076 Emissions Standards for Sources Emitting Toxic Air Pollutants**

(1) The term toxic air pollutants (TAP) or toxic air contaminant means any air pollutant listed in WAC 173-460-150 or 173-460-160. The term toxic air pollutant may include particulate matter and volatile organic compounds if an individual substance or a group of substances within either of these classes is listed in WAC 173-460-150 or 173-

460-160. The Chemical Abstract Service (CAS) number shall be the primary means used to specifically identify a substance. The term toxic air pollutant does not include particulate matter and volatile organic compounds as generic classes of compounds.

(2) All sources subject to the requirements of SWAPCA 400-110, 400-112, 400-113 or 400-114 shall be subject to the requirements of WAC 173-460. All sources subject to review under SWAPCA 400 shall also be reviewed for applicability and/or compliance under WAC 173-460.

(3) The New Source Review fee schedule provided in SWAPCA 400-110 shall be applicable to all sources subject to WAC 173-460. The fees identified in SWAPCA 400-110 shall not be duplicate to any fees collected under WAC 173-460. Only a single fee shall apply to sources that are subject to SWAPCA 400 and WAC 173-460.

(4) A Notice of Construction is a written application to request approval for construction or modification of an air contaminant source. If a Notice of Construction application is required under both SWAPCA 400 and WAC 173-460, then the applications shall be combined. All sources subject to WAC 173-460 shall file a Notice of Construction application in accordance with SWAPCA 400-110 "New Source Review".

(5) Authority actions including issuance of regulatory orders and enforcement actions for sources subject to WAC 173-460 shall be the same as those actions for sources subject to and identified in SWAPCA 400.

(6) Sources subject to WAC 173-460 shall be subject to the registration requirements of SWAPCA 400-100. Where a source is subject to both SWAPCA 400 and WAC 173-460, only one registration shall be provided and only one fee shall be collected in accordance with the schedule outlined in SWAPCA 400-100.

AMENDATORY SECTION**SWAPCA 400-081 Startup and Shutdown**

(1) In promulgating technology-based emission standards and making control technology determinations (e.g., BACT, RACT, LAER, BART) the Authority shall consider any physical and operational constraints on the ability of a source to comply with the applicable standard during startup or shutdown.

(2) Where the Authority determines that the source or source category, operated and maintained in accordance with good air pollution control practice, is not capable of achieving continuous compliance with an emission standard during startup or shutdown, the Authority shall include in regulatory orders or the Operating Permit, appropriate emission limitations, operating parameters, or other criteria to regulate the performance of the source during startup or shutdown conditions.

(3) In modeling the emissions of a source for purposes of demonstrating attainment or maintenance of national ambient air quality standards, the Authority shall take into account any incremental increase in allowable emissions under startup or shutdown conditions authorized by an emission limitation or other operating parameter adopted under this section.

(4) Any emission limitation or other parameter adopted under this section which increases allowable emissions

during startup or shutdown conditions over levels authorized in the Washington State Implementation Plan shall not take effect until approved by EPA as a SIP amendment.

AMENDATORY SECTION

SWAPCA 400-09((0))1 Voluntary Limits on Emissions

(1) Voluntary limits on emissions and limitations on potential to emit may be requested by a source by submittal of a complete Notice of Construction application to the Authority as provided in SWAPCA 400-109. Confidential information shall be identified as set forth in SWAPCA 400-270. Upon request by the owner or operator of a source, and completion of review of the application by the Authority, the Authority shall issue a regulatory order which reduces that source's potential to emit to an amount agreed to by the owner or operator and the Authority.

(2) A condition contained in an order issued under this section shall be less than the source's otherwise allowable annual emissions of that air contaminant under all applicable requirements of Chapter 70.94 RCW and the FCAA, including any standard or other requirement provided for in the Washington State Implementation Plan.

(3) Any order issued under this section shall include monitoring, recordkeeping and reporting requirements sufficient to ensure that the source complies with any emission limit established under this section. Monitoring requirements shall use terms, test methods, units, averaging periods, and other statistical conventions consistent with the requirements of SWAPCA 400-105.

(4) Any order issued under this section shall be subject to the public notice and comment procedures under SWAPCA 400-171.

(5) The terms and conditions of a regulatory order issued under this section shall be federally enforceable, upon approval of this section as an element of the Washington State Implementation Plan. Any proposed increase in emissions above limits contained in an order issued under this section shall require revision or revocation of the order.

(6) Noncompliance with any stipulation, emission limit, operating parameter, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

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

SWAPCA 400-100 Registration Requirements and Operating Permit((s)) Fees

(1) Applicability. All sources or emission units that emit contaminants to the ambient air shall be registered with the Authority in accordance with this section as set forth in RCW 70.94.151 except those sources ~~((not))~~ specifically exempted by SWAPCA 400-100(3) and SWAPCA 400-101 ~~((shall register with the Authority in accordance with this section)).~~

(2) General requirements ~~((for registration)).~~

(a) A unique registration number shall be assigned to all sources required to be registered with SWAPCA and a ((A))

separate registration fee shall be provided for each air contaminant emission unit; provided that, an owner has the option to register a process with a detailed inventory of air contaminant sources and emissions related to the process((; provided further that, an owner need not provide a separate registration for identical facilities on the same premises)) A registration fee shall not be collected for exempt emission units identified at SWAPCA 400-101.

(b) Each registration submittal shall be certified for truth, accuracy and completeness by the owner or operator.

(c) Registration information shall be provided on forms supplied by the Authority and the forms shall be ~~((complete))~~ verified by the source and returned to the Authority with payment in full within the time specified by the Authority.

(d) Annual registration fees that are unpaid after July 31 for the effective year shall be considered to be in default and the source shall be considered to be out of business and in violation of item (d) above for failure to report closure. At the discretion of the Control Officer, all Orders of Approval for existing equipment shall become invalid for this source and the source shall be required to submit a Notice of Construction and applicable fees in accordance with SWAPCA 400-110 prior to resuming operations. The registration program covers the period of July 1 through June 30. Sources or emission units operating less than six months in the current registration period that are terminated, shall not be liable for registration fees. This does not apply to temporary or portable sources.

~~((e))~~ e) A report of closure or discontinuance shall be filed with the Authority within ninety days after operations producing emissions permanently cease at any source ((within the above categories)). (Refer to SWAPCA 400-230 for issuance of an Order of Discontinuance.)

(3) Registration Fees. Before the Control Officer may register any emission unit, the use of which may emit contaminants to the atmosphere, an annual registration fee of \$100.00 for each emission unit shall be paid. For new stationary sources, registration fees for the first year are included as part of the fees collected for a Notice of Construction application and shall not be considered in addition to those fees.

(a) Exceptions:

(i) An annual registration fee of \$50.00 shall be charged to each gasoline transport tank.

(ii) The registration fee for a small operation may be waived by ~~((administrative action))~~ the Control Officer provided sufficient demonstration of circumstances is presented, subject to the discretion of the Control Officer.

(iii) Emissions units and activities specifically exempted under SWAPCA 400-101 are not required to comply with the requirements of this section.

(iv) Operating Permit Program sources, as defined in RCW 70.94.030(17) shall pay an operating permit fee in accordance with SWAPCA 400-100(5). Operating Permit Program sources, as defined in RCW 70.94.030(17) are not required to comply with the registration requirements of this section after EPA grants interim or final approval of the SWAPCA Operating Permit Program pursuant to 40 CFR Part 70.

~~((v))~~ Prior to EPA approval of the SWAPCA Operating Permit Program, Operating Permit Program sources, as

defined in RCW 70.94.030(17) shall pay a registration fee in accordance with SWAPCA 400-100(5);)

~~((4) The owner or operator of each source within the following source categories that does not hold an Operating Permit shall register the source with the Authority:~~

- ~~(1) Agricultural drying and dehydrating operations;~~
- ~~(2) Asphalt plants;~~
- ~~(3) Beverage can surface coating operations;~~
- ~~(4) Bulk gasoline terminals;~~
- ~~(5) Cattle feedlots with facilities for one thousand or more cattle;~~
- ~~(6) Chemical plants;~~
- ~~(7) Ferrous foundries;~~
- ~~(8) Fertilizer plants;~~
- ~~(9) Flexible vinyl and urethane coating and printing operations;~~
- ~~(10) Grain handling, seed processing, pea and lentil processing facilities;~~
- ~~(11) Metallic mineral processing plants;~~
- ~~(12) Mineralogical processing plants;~~
- ~~(13) Nonferrous foundries;~~
- ~~(14) Other metallurgical processing plants;~~
- ~~(15) Petroleum refineries;~~
- ~~(16) Power boilers using coal, hog fuel, oil, or other solid or liquid fuel;~~
- ~~(17) Pressure sensitive tape and label surface coating operations;~~
- ~~(18) Rendering plants;~~
- ~~(19) Scrap metal operations;~~
- ~~(20) Synthetic organic chemical manufacturing industries;~~
- ~~(21) Sulfuric acid plants;~~
- ~~(22) Synthetic fiber production facilities;~~
- ~~(23) Veneer dryers;~~
- ~~(24) Wood waste incinerators;~~
- ~~(25) Other incinerators designed for a capacity of one hundred pounds per hour or more;~~
- ~~(26) Stationary internal combustion engines rated at five hundred horse power or more;~~
- ~~(27) Sawmills, including processing for lumber, plywood, shake, shingle, pulpwood insulating board, or any combination thereof;~~
- ~~(28) Any category of stationary sources subject to a federal standard of performance (NSPS) under 40 CFR Part 60, other than Subpart AAA (Standards of Performance for New Residential Wood Heaters);~~
- ~~(29) Any source which emits a contaminant subject to a National Emission Standard for Hazardous Air Pollutants (NESHAPS);~~
- ~~(30) Any major stationary source;~~
- ~~(31) Dry cleaning establishments using petroleum solvents and/or perchloroethylene solvent;~~
- ~~(32) Any source not specifically exempted in SWAPCA 400-101.)~~

~~((5)4) **Operating Permit Fees.** Fee determination and certification for sources subject to 70.94.161 RCW requirements.~~

~~(a) **Applicability.** The owner or operator of all sources subject to the requirement to obtain an Operating Permit under 40 CFR 70 or 70.94.161 RCW, shall pay an annual fee, or the equivalent over some other period as approved, subject to the discretion of the Control Officer, sufficient to~~

cover all reasonable (direct and indirect) costs required to develop and administer the Operating Permit Program requirements as specified in this section.

~~(b) **Pollutants for which fees will be assessed.**~~

~~(1) A volatile organic compound.~~
~~(2) Each pollutant regulated under Section 7411 or 7412 of the 1990 Federal Clean Air Act Amendments.~~

~~(3) Each pollutant for which a national primary ambient air quality standard has been promulgated except that carbon monoxide shall be excluded from this reference. PM₁₀ emissions will be utilized for purposes of calculating particulate matter emissions when such data is provided by the 40 CFR Part 70 source. Source test data is required to demonstrate the PM₁₀ portion of total particulate matter emissions.~~

~~(4) Emissions of each regulated pollutant emitted in excess of 7500 tons from a source shall be excluded from fee assessment.~~

~~(c) **Program cost projections.** The Authority shall prepare an Operating Permit Program budget each year based on a projected workload evaluation. Only fee eligible activities as specified in SWAPCA 400-100(f) and Ecology's development and oversight costs, as ((defined in Section 8, Chapter 252, Washington State Laws of 1993)) provided in RCW 70.94.162 shall be considered in the workload analysis. The projected budget shall be submitted to the Authority's Technical Advisory Council, as described in SWAPCA 400-172, for comments. The Technical Advisory Council shall be given an opportunity to provide input regarding the projected budget. The Control Officer shall evaluate all comments and revise the projected budget where deemed appropriate. After consideration of the comments, the Control Officer shall submit the proposed budget to the Board of Directors for approval. The approved budget shall be used in the equations below to determine the Operating Permit Program fees. The Authority shall publish the proposed and approved budgets and workload analysis in the Permit Register.~~

~~(d) **Three part fee assessment methodology.** Operating Permit Program fees shall be determined using a three part fee assessment methodology as described below:~~

~~(1) **Participation Fee.** Fees sufficient to cover one-third of the Board approved Operating Permit Program budget shall be assessed such that each source shall pay an equal share. The total Operating Permit Program budget shall be divided by three. This amount shall be further divided by the number of 40 CFR Part 70 sources within the Authority's jurisdiction. Participation fees shall be equal in amount for each 40 CFR Part 70 source. The participation portion of the fee shall be assessed according to the following formula:~~

$$PF = B \div 3 \div n, \text{ where;}$$

- ~~PF = Participation fee portion of total fee;~~
~~B = The total Authority budget for the Operating Permit Program;~~
~~n = The number of 40 CFR Part 70 sources.~~

~~(2) **Emissions Fee.** Fees sufficient to cover one-third of the budget shall be assessed such that each source shall pay an amount equal to that source's portion of the total annual emissions of the fee applicable pollutants from all 40 CFR~~

Part 70 sources within the Authority's jurisdiction. The total Operating Permit Program budget shall be divided by three. The ratio of each source's annual emissions (in tons) to the total annual emissions of fee applicable pollutants emitted by all 40 CFR Part 70 sources within the Authority's jurisdiction shall be paid by the owner or operator of each source. The emissions portion of the fee shall be assessed according to the following formula:

$EF = B \div 3 * SE \div TE$, where:

- EF = Emissions fee portion of total fee;
- B = The total Authority budget for the Operating Permit Program;
- SE = The sum of annual emissions of fee applicable pollutants in tons per year from the individual 40 CFR Part 70 source;
- TE = The sum of annual emissions of fee applicable pollutants in tons per year from all 40 CFR Part 70 sources.

(3) **Complexity Fee.** Fees sufficient to cover one-third of the budget shall be assessed such that each 40 CFR Part 70 source shall pay an amount equal to that source's portion of the total emissions units at all 40 CFR Part 70 sources within the Authority's jurisdiction. The total Operating Permit Program budget shall be divided by three. The ratio of each source's emissions units to the total number of emissions units located at all 40 CFR Part 70 sources within the Authority's jurisdiction shall be paid by the owner or operator of each source. The complexity portion of the fee shall be assessed according to the following formula:

$CF = B \div 3 * SU \div TU$, where:

- CF = Complexity fee portion of total fee;
- B = The total Authority budget for the Operating Permit Program;
- SU = The number of emission units at a source;
- TU = The number of emissions units at all 40 CFR Part 70 sources.

(4) **Total Fee:** The amount of the annual assessed fees for each 40 CFR Part 70 source shall be the sum of the participation, emissions and complexity fee portions ($PF+EF+CF = \text{Total Fee}$). The sum of the total fees for all 40 CFR Part 70 sources within the Authority's jurisdiction shall be equal in amount to the Board adopted budget for the Operating Permit Program.

(e) Accountability.

(1) The sum of the fees assessed by the Authority to all sources required to obtain Operating Permits within the Authority's jurisdiction shall not exceed the cost of developing and administering the program. All fees collected from permit program sources (~~pursuant to Section 6 of Chapter 252, Laws of 1993 (State of Washington)~~) as provided in RCW 70.94.162, shall be deposited in a dedicated air operating permit account. Such fees shall be used exclusively to support and administer the operating permit program.

(2) The Authority shall keep a record of all reasonable (direct and indirect) costs to develop and administer the Operating Permit Program as specified in 40 CFR Part 70. This information shall be used by the Authority to develop the Operating Permit Program budget specified in section (3) above. The information obtained from tracking revenues,

time and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

(3) In the event that the assessed fees exceed the cost of developing and administering the Operating Permit Program, such excess fees shall be used to develop and administer the Operating Permit Program in the next subsequent year. The amount of the excess fees shall be deducted from the projected budget of the next subsequent year prior to fee assessment for the subsequent year.

(f) Fee eligible activities.

(1) Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision or permit renewal;

(2) Source inspections, testing and other data gathering activities necessary for development of a permit, permit revision or renewal;

(3) Acting on an application for a permit, permit revision or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision or renewal, preparing a draft permit and fact sheet and preparing a final permit, but excluding the costs of developing BACT, LAER, BART or RACT requirements for criteria and toxic air pollutants;

(4) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(5) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(6) Reviewing compliance certifications and emission reports, conducting related compilation and reporting activities;

(7) Conducting compliance inspections, complaint investigations and other activities necessary to ensure that a source is complying with permit conditions;

(8) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the Pollution Control Hearings Board (PCHB) and all costs of judicial enforcement;

(9) The share attributable to permitted sources to the development and maintenance of emissions inventories;

(10) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(11) Training for permit administration and enforcement;

(12) Fee determination, assessment and collection, including the costs of necessary administrative dispute resolution and enforcement;

(13) Required fiscal audits, periodic performance audits and reporting activities;

(14) Tracking of time, revenues and expenditures and accounting activities;

(15) Administering the permit program including costs of clerical support, supervision and management;

(16) Provision of assistance to small business under jurisdiction of SWAPCA as required under Section 507 of the Federal Clean Air Act; and

(17) Other activities required by operating permit regulations issued by EPA under the Federal Clean Air Act.

(g) Late Fee Payments. Fees shall be paid in accordance with the schedule of payment agreed upon in advance

by the Control Officer and each operating permit source. Delinquent fees are subject to a late fee equal to three times the operating permit fee. The penalties authorized by this subsection are additional to and in no way prejudice SWAPCA's ability to exercise other civil and criminal remedies, including authority to revoke a source's operating permit for failure to pay all or part of its permit fee.

(h) **Schedules of Payment.** A source shall be allowed to pay its annual operating permit fees in one, two or four installments. Each schedule of payment shall specify the terms and dates of payments.

(i) **Transfer of Ownership.** Transfer of ownership of a source shall not affect that source's obligation to pay operating permit fees. Any liability for fee payment, including payment of delinquent fees and other penalties shall survive any transfer of ownership of a source.

(5) Inspections.

(a) Periodic onsite inspections of emission units and sources shall be allowed to verify compliance with applicable requirements, regulations, orders or rules governing the processes, equipment, or emissions from a source as set forth in RCW 70.94.200.

(b) Authority personnel or representatives shall have the authority to enter at reasonable times upon any private or public property excepting non-multiple unit private dwellings housing two families or less for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants to the atmosphere.

(c) No person shall refuse entry or access to Authority personnel who request entry for the purpose of inspection, who present appropriate credentials.

(d) No person shall obstruct, hamper or interfere with any such inspection.

AMENDATORY SECTION

SWAPCA 400-101 Sources Exempt from Registration Requirements

All air contaminant emissions units shall be registered with the Authority except for the emissions units listed in this section. In the event that a registered source has any of these emissions units at a location that is otherwise required to be registered or obtain an operating permit, the Authority may require that these emissions units be included on the permit or registration. However, registration fees shall not be assessed for any of the exempt emissions units. Any source exempted from registration under this section shall maintain sufficient documentation acceptable to the Authority that the source is entitled to exemption under this section. Any source exempted from registration under this section shall also be considered exempt from the requirements of SWAPCA 400-110, 400-112, 400-113, and 400-114. For the purpose of identifying sources or emission units exempt from registration, the source's or emission unit's potential to emit shall be used as the basis for emissions. All exempt emission units shall be identified on an Order of Authorization to Operate for an otherwise registered source (refer to SWAPCA 400-109). An exemption for an entire facility or source shall be valid only if the combined emissions from all emission units at that site or facility are less than 1.0 ton per year for criteria pollutants and less than the Small Quantity Emission Rate for each toxic air pollutant identified in WAC

173-460. If any exemption threshold is exceeded for an emission unit or units, either individually or combined, the source or emission unit(s) shall not be considered to be exempt.

List of Exempt Emission Units or Sources as a Single Source or Emission Unit:

(1) Air conditioning or ventilating systems designed for space heating and cooling which do not exhaust to the atmosphere contaminants generated by or released from process equipment.

(2) Any commercial or industrial manufacturing operation or business or process(es) associated with such operation or business which emits less than one ton per year combined of nitrogen oxides, carbon monoxide, PM₁₀, sulfur dioxide and volatile organic compounds from all emissions units combined. The one ton exemption does not apply to emissions of toxic air pollutants. Sources or emission units with emissions of toxic air pollutants to the ambient air may be exempted only if the annual emissions quantity for each toxic air pollutant is below the Small Quantity Emission Rate (annual rate) for each toxic air pollutant emitted as identified in WAC 173-460.

(3) Any commercial or industrial manufacturing operation or business or process(es) associated with such operation or business which is of insufficient stature to trigger a new source review fee assessment, from all emission units combined, as specified in Table A under SWAPCA 400-110.

(4) Asphalt roofing and application equipment (not manufacturing or storage equipment).

(5) Fuel burning equipment unless waste-derived fuel is burned, which:

(a) is used solely for a private dwelling serving less than five families; or

(b) has an energy input of less than 2 million Btu per hour.

(6) Fuel burning equipment used exclusively for space heating other than boilers.

(7) Insecticide, pesticide or fertilizer spray equipment.

(8) Laundering devices, dryers, extractors or tumblers for fabrics using water solutions of bleach and/or detergents.

(9) Portable, manually operated welding, brazing or soldering equipment when used at other than the owner's principal place of business.

(10) Welding stations involved solely in the repair and maintenance of a facility. This exemption does not extend to manufacturing operations where welding is an integral part of the manufacturing process.

~~(1((0))1~~ Food preparation facilities, establishments or equipment.

~~(1((+))2~~ Retail paint sales establishments (not including manufacturing).

~~(1((2))3~~ Sampling connections used exclusively to withdraw materials for laboratory analyses and testing.

~~(1((3))4~~ Sewing equipment.

~~(1((4))5~~ Sources which due to the amount and nature of air contaminants produced and their potential to contribute to air pollution, are determined through review by the Authority to not warrant registration; provided that, for new sources, such determination shall be based upon review of a Notice of Construction application.

~~(1)((5))6~~ Spray painting or blasting equipment used at a temporary location to clean or paint bridges, water towers, buildings or other structures.

~~(1)((6))7~~ Chemical and physical laboratory operations or equipment, including fume hoods and vacuum producing devices provided the emissions do not exceed those listed in SWAPCA 400-101(2). This exemption applies to incidental fume hoods or laboratory equipment used by a source to perform in-house analyses that do not exceed the small quantity exemption of (2) above. This exemption does not apply to sources whose primary activity is chemical or physical laboratory operations.

~~(1)((7))8~~ Residential wood heaters.

~~(1)((8))9~~ Office equipment, operations and supplies.

~~((49))20~~ Internal combustion including diesel engines used for standby emergency power generation which are used less than 100 hours per year and are rated at less than 500 horsepower.

~~(2)((9))1~~ Steam cleaning equipment used exclusively for that purpose.

~~((21) Welding stations involved solely in the repair and maintenance of a facility. This exemption does not extend to manufacturing operations where welding is an integral part of the manufacturing process.)~~

(22) Refrigeration systems which are not in air pollution control service.

(23) Housekeeping activities and equipment.

(24) Natural draft hoods, natural draft stacks, or natural draft ventilators for sanitary and storm drains, safety valves and storage tanks.

(25) Natural and forced air vents and stacks for bathroom/toilet facilities.

(26) Personal care activities.

(27) Lawn and landscaping activities.

(28) Flares used to indicate danger to the public.

(29) Fire fighting and similar safety equipment and equipment used to train fire fighters.

(30) Materials and equipment used by, and activities related to operation of an infirmary provided that operation of an infirmary is not the primary business activity at the source in question.

AMENDATORY SECTION

SWAPCA 400-105 Records, Monitoring and Reporting

The owner or operator of ~~((a source))~~ each registered source or emission unit shall ((upon notification by the Authority)) maintain records on the type and quantity of emissions from the source and other information deemed necessary to determine whether the source is in compliance with applicable emission limitations and control measures. Sources that are not subject to the registration requirements of SWAPCA 400-100 because they are exempt under SWAPCA 400-101 shall nevertheless maintain records and other information necessary and sufficient to substantiate that their small quantity emissions are less than the applicable thresholds.

(1) Emission inventory.

~~(a) When requested, t((F))~~ the owner(s) or operator(s) of any air contaminant source shall submit an inventory of emissions from the source each year to the Authority. The

inventory shall include stack and fugitive emissions of particulate matter, PM₁₀, sulfur dioxide, carbon monoxide, total reduced sulfur compounds (TRS), fluorides, lead, VOCs, and toxic air pollutants identified in WAC 173-460 ~~((other contaminants, and shall be submitted (when required) no later than one hundred five days after the end of the calendar year)).~~ The owner(s) or operator(s) shall maintain records of information necessary to substantiate any reported emissions, consistent with the averaging times for the applicable standards.

(b) The emission inventory form supplied by the Authority shall be completed and returned to the Authority by April 15th for the following sources:

(i) Sources with the potential to emit over 100 tons of criteria pollutants, 10 tons of a single hazardous air pollutant or 25 tons of combined hazardous air pollutants, sources subject to NSPS, except subpart AAA, and sources subject to NESHAPS, except subpart M, sources are required to submit an emissions inventory. Only the hazardous air pollutants listed in Section 112 of the FCAA are considered for inclusion as hazardous air pollutant emissions for the purpose of determining those sources required to submit an emissions inventory. Minimum data required for the emissions inventory includes: emissions type, emissions quantity, process data, stack parameters, operating schedule, control equipment and boiler capacity.

(ii) In ozone nonattainment areas, those sources that emit over 10 tons of VOCs per year or over 25 tons per year of NO_x are also required to submit emission inventories. Minimum data required for the emissions inventory includes: emissions type, emissions quantity, process data, stack parameters, operating schedule, control equipment, and equipment capacity. Sources subject to this section are also required to submit daily emissions data for NO_x and VOCs in preparation for the SIP update.

(2) Monitoring. The Authority shall conduct a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants. As a part of this program, the Control Officer or an authorized representative may require any source under the jurisdiction of the Authority to conduct stack and/or ambient air monitoring and to report the results to the Authority.

(3) Investigation of conditions. Upon presentation of appropriate credentials, for the purpose of investigating conditions specific to the control, recovery, or release of air contaminants into the atmosphere, personnel from the Authority shall have the power to enter at reasonable times upon any private or public property, excepting non-multiple unit private dwellings housing one or two families.

(4) Source testing. To determine compliance, evaluate control equipment performance, evaluate RACT or quantify emissions the Authority may conduct or require that a test be conducted of the source or any emissions unit within the jurisdiction of the Authority. Source testing shall be performed using appropriate sampling and analytical methods as approved in advance by the Authority including, but not limited to, approved EPA methods from 40 CFR 60 Appendix A which are adopted by reference, or ~~((approved procedures contained in "Source Test Manual - Procedures for Compliance Testing", State of Washington, Department of Ecology, as of July 12, 1990, on file at))~~ alternate

procedures approved by the Authority. The operator of a source shall provide the necessary platform and sampling ports for Authority personnel or others to perform a test of an emissions unit. The Authority shall be allowed to obtain a sample from any emissions unit. The operator of the source shall be given an opportunity to observe the sampling and to obtain a sample at the same time.

(5) **Continuous monitoring and recording.** Owners and operators of the following categories of sources shall install, calibrate, maintain and operate equipment for continuously monitoring and recording those emissions specified.

(a) Fossil fuel-fired steam generators.

(i) Opacity, except where:

(A) Steam generator capacity is less than two hundred fifty million Btu per hour heat input; or

(B) Only gaseous fuel is burned.

(ii) Sulfur dioxide, except where steam generator capacity is less than two hundred fifty million Btu per hour heat input or if sulfur dioxide control equipment is not required.

(iii) Percent oxygen or carbon dioxide where such measurements are necessary for the conversion of sulfur dioxide continuous emission monitoring data.

(iv) General exception. These requirements do not apply to a fossil fuel-fired steam generator with an annual average capacity factor of less than thirty percent, as reported to the Federal Power Commission for calendar year 1974, or as otherwise demonstrated to the Authority by the owner(s) or operator(s).

(b) Sulfuric acid plants. Sulfur dioxide where production capacity is more than three hundred tons per day, expressed as one hundred percent acid, except for those facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.

(c) Fluidized bed catalytic cracking units catalyst regenerators at petroleum refineries. Opacity where fresh feed capacity is more than twenty thousand barrels per day.

(d) Wood residue fuel-fired steam generators.

(i) Opacity, except where steam generator capacity is less than one hundred million Btu per hour heat input.

(ii) Continuous monitoring equipment. The requirements of SWAPCA 400-105 (5)(e) do not apply to wood residue fuel-fired steam generators, but continuous monitoring equipment required by SWAPCA 400-105 (5)(d) shall be subject to approval by the Authority.

(e) Owners and operators of those sources required to install continuous monitoring equipment under this section shall demonstrate to the Authority, compliance with the equipment and performance specifications and observe the reporting requirements contained in 40 CFR Part 51, Appendix P, Sections 3, 4 and 5, promulgated October 6, 1975, and amended November 7, 1986, which is adopted by reference.

(f) Special considerations. If for reason of physical plant limitations or extreme economic situations, the Authority determines that continuous monitoring is not a reasonable requirement, alternative monitoring and reporting procedures shall be established on an individual basis. Alternative monitoring and reporting procedures may include continuous monitoring of process/operational parameters as a surrogate

to continuous emissions monitoring and/or stack tests conducted at a frequency sufficient to determine compliance with applicable regulations and permit requirements as well as to quantify emissions.

(g) Exemptions. This subsection (5) does not apply to any source which is:

(i) Subject to a new source performance standard. NSPS sources shall be governed by SWAPCA 400-115.

(ii) Not subject to an applicable emission standard.

(h) Monitoring system malfunctions. A source may be temporarily exempted from the monitoring and reporting requirements of this ~~(chapter)~~ section during periods of monitoring system malfunctions provided that the source owner(s) or operator(s) shows to the satisfaction of the Authority that the malfunction was unavoidable and is being repaired as expeditiously as practicable.

(6) **Change in raw materials or fuels for sources not subject to requirements of the Operating Permit Program.** Any change or series of changes in raw material or fuel which will result in a cumulative increase in emissions of sulfur dioxide of forty tons per year or more over that stated in the initial inventory required by SWAPCA 400-105(1) shall require the submittal of sufficient information to the Authority to determine the effect of the increase upon ambient concentrations of sulfur dioxide. The Authority may issue regulatory orders requiring controls to reduce the effect of such increases. Cumulative changes in raw material or fuel of less than 0.5 percent increase or decrease in average annual sulfur content over the initial inventory shall not require such notice.

AMENDATORY SECTION

SWAPCA 400-107 Excess Emissions

(1) The owner or operator of a source shall have the burden of proving to the Authority or the decision-making entity (e.g., Pollution Control Hearings Board) in an enforcement action that excess emissions were unavoidable. This demonstration shall be a condition to obtaining relief under subsections (4), (5) and (6) of this section.

(2) Excess emissions determined by the Authority to be unavoidable under the procedures and criteria in this section shall be excused and not subject to penalty.

(3) Excess emissions shall be reported to the Authority as soon as possible. Upon request by the Authority, the owner(s) or operator(s) of the source(s) shall submit a full written report including the known causes, the corrective actions taken, and the preventive measures to be taken to minimize or eliminate the chance of recurrence.

(4) Excess emissions due to startup or shutdown conditions shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been prevented through careful planning and design and if a bypass of control equipment occurs, that such bypass is necessary to prevent loss of life, personal injury, or severe property damage.

(5) ~~(Maintenance.)~~ Excess emissions due to scheduled maintenance shall be considered unavoidable if the source reports as required under subsection (3) of this section and adequately demonstrates that the excess emissions could not have been avoided through reasonable design, better schedul-

ing for maintenance or through better operation and maintenance practices.

(6) Excess emissions due to upsets shall be considered unavoidable provided the source reports as required under subsection (3) of this section and adequately demonstrates that:

(a) The event was not caused by poor or inadequate design, operation, maintenance, or any other reasonably preventable condition;

(b) The event was not of a recurring pattern indicative of inadequate design, operation, or maintenance; and

(c) The operator took immediate and appropriate corrective action in a manner consistent with good air pollution control practice for minimizing emissions during the event, taking into account the total emissions impact of the corrective action, including slowing or shutting down the emission unit as necessary to minimize emissions, when the operator knew or should have known that an emission standard or permit condition was being exceeded.

NEW SECTION

SWAPCA 400-109 Notice of Construction Application

(1) **Purpose.** A Notice of Construction application is the document or form used by the Authority to record and track requests from individual sources, registered and non-registered, for the purpose of obtaining information regarding proposed changes or activities at a source. Confidential information shall be identified as set forth in SWAPCA 400-270. Changes may include modifications, alterations, changes to process or control equipment, establishment of emission limits, and installation of new sources.

(2) Applicability.

(a) A Notice of Construction application consistent with SWAPCA 400-110 shall be submitted for all new installations, modifications, changes, and alterations to process and emission control equipment consistent with the definition of new source.

(b) Submittal of a Notice of Construction application shall not automatically impose New Source Review requirements for meeting emissions standards (including, but not limited to: NSPS, NESHAPs, any ambient air quality standard, etc.).

(3) **Types of Applications.** A Notice of Construction application may be submitted for, but not be limited to, the following activities:

(a) New construction or installation.

(b) Change of existing approved emission limits (including Title V opt-out requests).

(c) Review of existing or installed equipment operating without prior approval.

(d) Modification, alteration or replacement of existing process or control equipment.

(e) Change of registered owner (purchase or sale of source, facility or equipment).

(f) Change of location of operations of existing portable and stationary equipment.

(g) Review of existing equipment with an expired or lapsed approval or registration.

(h) Review of a case-by-case RACT, BACT, MACT or other similar determination.

(i) Other activities as identified by the Authority.

(4) **Fees.** A fee consistent with the fee schedule (Tables A and B) provided in SWAPCA 400-110 shall be paid by the owner or operator to the Authority prior to review of the Notice of Construction application by the Authority.

(5) **Authority Actions.** Each acceptable and complete Notice of Construction application shall have an Order of Approval or other applicable order issued by the Authority. A Notice of Construction for a gasoline dispensing station shall be submitted and approved as provided in SWAPCA 400-110(8). Issuance of regulatory orders for all Notice of Construction applications shall be consistent with the requirements of SWAPCA 400-110. Requirements for New Source Review are provided in SWAPCA 400-110, 400-112 & 400-113. A Notice of Construction application may be withdrawn prior to issuance of a regulatory order by the Authority as provided in (6) below; or an application may be determined by the Authority to be exempt as provided under 400-100, 400-101, or 400-110. An application determined to be exempt will be processed as identified in (6) below.

(6) Withdrawal or Exempt.

(a) A Notice of Construction application may be withdrawn by the applicant at any time prior to issuance of a regulatory order. The applicant must provide a written and signed request to the Authority indicating their desire to withdraw a Notice of Construction application, and certification that the proposed equipment or modification will not be installed, constructed, or operated without prior review and approval from the Authority. The Authority shall provide written response to acknowledge withdrawal of the application.

(b) After review by the Authority, an application may be determined to be exempt from the registration requirements of SWAPCA 400-100 and New Source Review requirements of SWAPCA 400-110. Written notification shall be provided by the Authority to the applicant for all applications that are determined to be exempt. For withdrawn or exempt applications, filing fees will not be refunded to the applicant. Review fees, if provided with the application, may be refunded, upon request, provided that substantial time has not been expended by the Authority for review of the Notice of Construction application.

AMENDATORY SECTION

SWAPCA 400-110 New Source Review (NSR)

(1) Applicability.

(a) New Source Review means that if the new source, modification or substantial alteration or replacement meets the definition of "new source" then that new source or modification must demonstrate that all applicable emission standards have been or will be met by the proposed modification or new source. A complete Notice of Construction application shall be submitted for each source required to submit an application under the requirements of this section. Confidential information shall be identified as set forth in SWAPCA 400-270.

Before the Authority may review a Notice of Construction application, a filing fee of \$75.00 and a review fee, as shown in Table A shall be submitted by the applicant. ~~((~~ and, i)) If offsetting emission reductions or other types of review identified in Table B are required to be performed by the Authority as a result of the proposed installation,

alteration, or modification, an additional review ((offset analysis)) fee ((of \$75.00)) shall be paid. (Total Fee = Filing Fee + Review Fee [Table A] + ((Offset)) Additional Review Fee [Table B]).

Notice of Construction application review fees based on emissions are to utilize actual or approved emissions, after controls, as supported by test data or emission factors, not potential to emit. Other review fees as noted in the fee

tables are based on design capacities of the source equipment. Where a source may fall under multiple categories, only one fee per application shall apply; Table A fees are not considered additive as they apply to an application. In general, the fee determination shall be based on the primary emission unit or activity of the new, modified or altered source.

TABLE A
Notice of Construction Application Review Fees

		<u>Fuel Change</u>	<u>New Installation</u>
i.	<u>Fuel Burning Equipment</u> (Million Btu/hr heat input @ design capacity):		
	2 or more but 1 (L)less than 5	\$25.00	\$100.00
	5 or more but less than 10	50.00	200.00
	10 or more but less than (2) 30	100.00	350.00
	(2) 30 or more but less than 50	200.00	500.00
	50 or more but less than 100	300.00	1,000.00
	100 or more but less than 250	400.00	2,500.00
	250 or more but less than 500	500.00	4,000.00
	500 or more	600.00	6,000.00
ii.	<u>Discharge ((Actual Cubic Feet/Minute (ACFM))) from control equipment or from uncontrolled process equipment (Actual Cubic Feet per Minute - ACFM):</u>		
	Less than 5		\$100.00
	5 or more but less than 5,000		200.00
	5,000 or more but less than 20,000		300.00
	20,000 or more but less than 50,000		400.00
	50,000 or more but less than 100,000		500.00
	100,000 or more but less than 250,000		1,000.00
	250,000 or more but less than 500,000		2,000.00
	500,000 or more		4,000.00
iii.	<u>Refuse Burning Equipment (Incinerators)(Tons/day):</u>		
	0.5 or more but less than 5		\$100.00
	5 or more but less than 12		1,000.00
	12 or more but less than 250		3,000.00
	250 or more		4,000.00
iv.	<u>Storage Tanks, Reservoirs, or Containers (Gallons-total capacity):</u> <u>(Other than gasoline or diesel fuel dispensing facilities)</u>		
	250 or more but less than 10 (6),000		\$100.00
	10 (6),000 or more but less than 40,000		500.00
	40,000 or more but less than 100,000		1,000.00
	100,000 or more ((but less than 500,000))		2,000.00
	((500,000 or more		3,000.00))
	((1,000,000 or more		4,000.00))
v.	<u>Gasoline ((Station)) Dispensing Facilities</u>		
	Stage I	\$100.00	((250.00))
	Stage II	200.00	((500.00))
	Stages I & II, combined	200.00	((500.00))
	<u>Installation of storage tanks greater than 2000 gallons</u>		100.00
vi.	<u>Other</u> (Not classified in Subsection i., ii., iii., or iv. above)		\$100.00/ton of emission
vii.	<u>Toxic Air Contaminants</u>		\$100.00 up to one ton and \$100.00 for each additional ton
viii.	<u>Major Source or Major Modification</u> <u>((with Significant Impact))</u>		\$5,000.00

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ix.	<u>Synthetic minor application (including, but not limited to: Title V, HAP)</u>	<u>Not to exceed \$5,000.00</u>
x.	<u>Particulate Matter and Fugitive Emissions from Rock Crushing, Material Transfer and Ship Loading (Emissions - tons per year)</u>	
	<u>1.0 or more but less than or equal to 10</u>	<u>\$100.00</u>
	<u>More than 10 but less than or equal to 50</u>	<u>500.00</u>
	<u>More than 50 but less than or equal to 100</u>	<u>1,000.00</u>
	<u>More than 100 but less than 250</u>	<u>2,500.00</u>
	<u>250 or greater</u>	<u>5,000.00</u>
xi.	<u>Modifications to an Existing Order</u>	<u>\$200.00</u>
xii.	<u>Installation or Operation of a Temporary, Substitute or Emergency Source</u>	<u>\$300.00</u>

TABLE B
Other Review Fees

The following fees are considered additive to the filing and review fees assessed for Notice of Construction applications (Table A). These fees apply to activities that may be requested of and performed by the Authority with or without submittal of a Notice of Construction application and are not part of the activities normally performed by the Authority as part of the Notice of Construction application review.

xiii.	<u>Emission Offset Analysis</u>	<u>\$200.00</u>
xiv.	<u>Emission Reduction Credit (ERC) Application (Deposit or withdrawal)</u>	<u>\$200.00</u>
xv.	<u>State Environmental Policy Act (SEPA) - Lead Agency</u>	<u>\$1000.00</u>
xvi.	<u>Environmental Impact Statement (EIS) Review</u>	<u>\$500.00</u>
xvii.	<u>RACT/BACT/MACT/BART/LAER Determination</u>	<u>\$2,000.00</u>

(b) A Notice of Construction application that meets the minimum requirements for New Source Review must be filed by the owner or operator and an Order of Approval issued by the Authority prior to the establishment of any new source or emission unit or modification which is listed in SWAPCA 400-100 or required to obtain an Operating Permit under RCW 70.94.161.

(c) The Authority may require that:

(i) a Notice of Construction application be filed by the owner or operator of a proposed new source or modification,

(ii) the source meet all New Source Review requirements, and

(iii) an Order of Approval be issued by the Authority prior to the establishment of any new source or emission unit or modification, other than a single family or a duplex dwelling.

(d) New Source Review of a modification shall be limited to the emission unit or units proposed to be added to an existing source or modified and the air contaminants whose emissions would increase as a result of the modification.

(e) New Source Review is not required for those sources whose facility wide combined emissions (potential to emit) do not exceed the limits specified in SWAPCA 400-101 or whose emission unit capacities are less than the minimum quantities specified in Table A of SWAPCA 400-110 (1)(a). The owner or operator of an exempt facility shall maintain sufficient documentation acceptable to the Authority to substantiate that the source is entitled to exemption under this section. An emission unit exempt from registration

under SWAPCA 400-100 or 400-101 may be exempt from New Source Review requirements.

(f) New Source Review is not required when the following conditions are met:

(i) Performance of routine maintenance or repair that involves the replacement of like-in-kind air pollution control equipment or controls. This includes upgrades of parts or components where due to wear or breakage, parts or components must be replaced and exact replacement parts or components are no longer available from the original equipment manufacturer or after market vendors. In no case shall the replacement parts result in an increase in actual emissions above allowable emissions;

(ii) A process change is made that does not result in an emission of a different type not previously approved or an increase in capacity and total air pollutant emissions;

(iii) A process change is made that does not result in an emission of a different type of toxic air pollutant, as provided in WAC 173-460, not previously approved and individual toxic air pollutant emissions do not exceed the Small Quantity Emission Rates specified in the Small Quantity Emission Rate tables in WAC 173-460-080 (annual rate);

(iv) A raw material composition change that does not result in individual toxic air pollutant emissions that exceed the Small Quantity Emission Rates specified in the Small Quantity Emission Rate tables in WAC 173-460-080 (annual rate);

(g) Any source required to submit a Notice of Construction application for New Source Review is required to demonstrate that all applicable emission standards have been

or will be met by the proposed modification or new source. Examples of applicable emissions standards may include, but not be limited to: RACT, BACT, LAER, BART, MACT, NSPS, NESHAPS, and any ambient air quality standards as identified in Table C. Requirements for new and modified sources and replacement or alteration of control equipment are further addressed in SWAPCA 400-112, 400-113, 400-114, and 400-151.

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TABLE C
Emission Concentration Regulatory Standards and Significance Levels

Pollutant	Averaging Period	Class II	Class I PSD Increments $\mu\text{g}/\text{m}^3$ (ppm)	Class II PSD Increments $\mu\text{g}/\text{m}^3$ (ppm)	NAAQS		Washington
		Significant Impact Criteria $\mu\text{g}/\text{m}^3$ (ppm)			Primary Ambient Standards $\mu\text{g}/\text{m}^3$ (ppm)	Secondary Ambient Standards $\mu\text{g}/\text{m}^3$ (ppm)	Ambient Standards $\mu\text{g}/\text{m}^3$ (ppm)
Carbon Monoxide (CO) (WAC 173-475)	8-Hour	500	--	--	10,000 ^a (9.0)	10,000 ^a (9.0)	10,000 ^a (9.0)
	1-Hour	2,000	--	--	40,000 ^a (35.0)	40,000 ^a (35.0)	40,000 ^a (35.0)
Nitrogen Dioxide (NO ₂) (WAC 173-475)	Annual* (arithmetic mean)	1	2.5	25	100 (0.05)	100 (0.05)	100 (0.05)
Ozone (O ₃) (WAC 173-475)	1-Hour ^c	--	--	--	(0.12)	(0.12)	(0.12)
Sulfur Dioxide (SO ₂) (WAC 173-474)	Annual*	1	2	20	80 (0.03)	--	53 (0.02)
	24-Hour	5	5	91	365 ^b (0.14)	--	260 ^b (0.10)
	3-Hour	25	25	512	--	1,300 ^b (0.50)	--
	1-Hour	--	--	--	--	--	1,065 ^b (0.40) ^d
Total Reduced Sulfur (TRS)	1-Hour	--	--	--	--	--	--
Total Suspended Particulates (TSP) (WAC 173-470)	Annual* (geometric mean)	1	5	19	75	60 ^e	60
	24-hour	5	10	37	260 ^e	150 ^e	150 ^e
Particulate Matter less than 10 μm (PM ₁₀) (WAC 173-470)	Annual (geometric mean)	1	--	17	50	50	50
	24-Hour	5	--	30	150 ^e	150 ^e	150 ^e
Lead	Quarterly Average	--	--	--	1.5	1.5	1.5

$\mu\text{g}/\text{m}^3$ = micrograms per cubic meter; ppm = parts per million

^a Never to be exceeded.

^b Not to be exceeded more than once per year.

^c This is not a standard, rather it is to be used as a guide in assessing whether implementation plans will achieve the 24-hour standard.

^d Also, 0.25 ppm not to be exceeded more than twice in seven days.

^e Not to be exceeded on more than 1 day per calendar year as provided in WAC 173-475

Annual standards never to be exceeded; short term standards not to be exceeded more than once per year unless otherwise noted.

Sources include the EPA New Source Review Workshop Manual, 40 CFR 52.21 and individual WAC Chapters.

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The significant impact criteria are used to determine if a proposed project or modification will cause a significant deterioration in ambient air quality for Class II areas. If a proposed project impacts (i.e., changes in ambient concentrations resulting from the proposed project or modification alone) are predicted to be less than the significant impact criteria, then the air quality analysis is complete at that point. If the ambient impact of a proposed project or modification exceeds these levels, compliance with available PSD increments and AAQS must then be demonstrated. If a proposed project or modification exceeds the significant ambient concentrations for Class II areas, monitoring of existing ambient air quality may be required if data sufficient to characterize background air quality are not available.

(2) **Completeness determination.** Within thirty calendar days of receipt of a Notice of Construction application, the Authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary, based upon review of information already supplied, to complete the application as provided under RCW 70.94.152. For a project subject to PSD review under SWAPCA ((WAC 173-)400-141 a completeness determination includes a determination that the application provides all information required to conduct PSD review. The Authority may request additional clarification of information submitted from the source after a completeness determination has been made for a Notice of Construction application.

(3) **Final determination/Regulatory Orders.**

(a) Within sixty calendar days of receipt of a complete application, the Authority shall either issue a final decision on the application or, for those projects subject to public notice, initiate notice and comment procedures under SWAPCA 400-171 on a proposed decision, followed as promptly as possible by a final decision. An owner or operator seeking to construct or modify a source that requires an operating permit may elect to integrate review of the operating permit application or amendment required under RCW 70.94.161 and the Notice of Construction application required by this section. A Notice of Construction application designated for integrated review shall be processed in accordance with ~~((Operating Permit Program))~~ SWAPCA 401 procedures and deadlines.

(b) Every final determination on a Notice of Construction application that results in the issuance of an Order of Approval by the Authority shall be reviewed and signed prior to issuance by a professional engineer or staff under the direct supervision of a professional engineer in the employ of the Authority.

(c) If the new source is a major stationary source or the change is a major modification, the Authority shall submit any control technology determination(s) included in a final Order of Approval to the RACT/BACT/LAER clearinghouse maintained by EPA.

(4) **Appeals.** An Order of Approval, any conditions contained in an Order of Approval, ~~((or))~~ the denial of a Notice of Construction application, or any other regulatory order issued by the Authority, may be appealed to the Board of Directors as specified in SWAPCA 400-220 of this regulation or appealed directly to the Pollution Control Hearings Board within 30 calendar days of receipt as provided in Chapter 43.21B RCW. The Authority shall

promptly mail copies of each order approving or denying a Notice of Construction application to the applicant and to any other party who submitted timely comments on the application, along with a notice advising the parties of their rights of appeal to the Pollution Control Hearings Board and, where applicable, to the EPA Environmental Appeals Board.

(5) **Portable sources.** For portable sources which locate temporarily at particular sites, the owner(s) or operator(s) shall be allowed to operate at the temporary location without filing a Notice of Construction application for each location provided that:

(a) The source/emissions units are registered with the Authority.

(b) The source/emissions units have an Order of Approval as a portable source ~~((in which the owner(s) or operator(s) has successfully demonstrated that the emission control equipment and provisions are commensurate with BACT)).~~

~~((c) The proposed equipment and operation is identical to that previously approved.))~~

~~((d))~~(c) The owner(s) or operator(s) notifies the Authority of intent to operate at the new location at least ten business days prior to starting the operation.

~~((e))~~(d) The owner(s) or operator(s) supplies sufficient information including production quantities and hours of operation, to enable the Authority to determine that the operation will comply with the emission standards for a new source, and will not cause a violation of applicable ambient air quality standards and, if in a nonattainment area, will not interfere with scheduled attainment of ambient standards.

~~((f))~~(e) The owner(s) and/or resident(s) of immediately adjacent properties shall be notified by the owner(s) or operator(s) of the portable source in writing at least 10 business days prior to commencement of operations at the proposed location with copies mailed to the Authority. Written notification to the adjacent landowners/residents shall be by certified mail with return receipt requested. Such written notification shall include a complete description of the proposed operation, ~~((and))~~ the associated emissions control provisions and equipment, the total estimated project emissions, the name, address and phone number of the person in charge of the operation, and the address and phone number for SWAPCA. Written notification shall indicate that all comments shall be directed to the Authority.

(6) **Compliance.** Noncompliance with any stipulation, emission limit, operating parameter, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

~~((g))~~(7) **Expiration.** Approval to construct or modify a stationary source shall become invalid if construction is not commenced within eighteen months after the date of issuance of an Order of Approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The Authority may extend the eighteen-month period upon a satisfactory demonstration that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commencement date. The

Authority may specify an earlier date for commencement of construction in an Order of Approval.

(8) Temporary, Emergency, or Substitution Sources.

(a) A temporary source shall be considered to be a new source. The Authority may require that a Notice of Construction application and applicable review fees be submitted before reviewing a request for a temporary, emergency or substitution source. The Authority may provide approval for special situations for a source without meeting the requirements for New Source Review when one or more of the following conditions are met:

(i) The temporary source is needed to replace a previously approved similar source where the approved source is non-functional due to breakdown or other similar circumstances beyond the control of the owner or operator. This may include replacement steam or power supply units where facilities have an immediate need to continue production or service to public or private industries, or have a need for an extended or unscheduled shutdown of equipment that is of a duration not otherwise planned for. The Authority may provide written approval for a temporary source that may include but not be limited to emission limits, operational or maintenance requirements or limitations, monitoring and reporting requirements, and testing requirements. Installation of a temporary source due to poor or improper maintenance or operations is required to submit a Notice of Construction application for permanent replacement within 30 days of installation.

(ii) The temporary source is necessary to support public or private needs in the event of a local or regional disaster when proper planning could not be accommodated. In no event shall the temporary source be authorized for operations for durations greater than three months. Written approval shall be provided by the Authority that may contain but not be limited to: emission limits, operation and maintenance requirements and limitations, monitoring and reporting requirements, and testing requirements. For operations greater than three months the owner or operator shall submit a Notice of Construction application under New Source Review requirements (SWAPCA 400-110) for approval from the Authority.

(iii) The temporary source is a one time special need, urgent application, that can not otherwise be accommodated through the New Source Review process due to the critical nature of the source and time constraints. As a condition of approval under this expedited approval process, a new source of this type could not request to be allowed or expected to operate within the jurisdiction of the Authority for the following three years. Written approval shall be provided by the Authority that may contain but not be limited to: emission limits, operation and maintenance requirements and limitations, monitoring and reporting requirements and testing requirements. In no case shall approval be provided for operation greater than three months. For operations greater than three months, the owner or operator shall submit a Notice of Construction application under the New Source Review requirements of SWAPCA 400-110.

(b) An emergency source is the result of an emergency situation that could not otherwise be planned for. The Authority shall provide written approval for an emergency source provided that the owner or operator has provided sufficient documentation or demonstration of the need for the

source to the satisfaction of the Control Officer. The written approval may include but not be limited to: emission limits, operation and maintenance requirements and limitations, monitoring and reporting requirements, and testing requirements. In no case shall approval be provided for operations greater than three months.

(c) A substitute source is the same as a temporary source as in (a) above. A substitute source may be of a different manufacturer and model number and size and may result in increased emissions from installation from previously approved equipment on a short term basis. The Authority shall provide written approval for a substitute source that may include but not be limited to: emission limits, operational or maintenance requirements or limitations, monitoring and reporting requirements, and testing requirements. In no event shall the substitute source be authorized for operations for durations greater than three months. For operations greater than three months, the owner or operator shall submit a Notice of Construction application under the New Source Review requirements of SWAPCA 400-110.

(9) Gasoline dispensing facilities.

(a) Owners or operators of gasoline dispensing facilities shall submit a Notice of Construction application for all new or upgraded facilities as defined in SWAPCA 491 prior to installation, construction or modification. New Source Review fees shall apply for all Notice of Construction applications as identified in SWAPCA 400-110. Installation of vapor control equipment and compliance schedules shall be as provided in SWAPCA 491. Applications for installation of Stage II equipment shall include a Stage I application if the tanks, spill/overflow collection, cathodic protection or Stage I controls are to be replaced, changed or modified as part of the Stage II activity.

(b) All gasoline vapor control equipment installed at gasoline dispensing facilities shall be certified by the California Air Resources Board (CARB) and shall have a CARB Executive Order issued for the vapor control equipment.

(c) A Notice of Construction application for a gasoline dispensing facility shall be submitted to the Authority prior to installation, construction, or upgrade of gasoline dispensing equipment, control equipment, or facilities.

(d) The Authority shall provide written notification to the applicant within 30 calendar days of receipt of the application if the application is complete and in accordance with applicable requirements. An Order of Approval will not be issued for a Notice of Construction for gasoline dispensing facilities and the public notice and comment procedures will not be required if the Notice of Construction application provides for certified or approved equipment and controls as identified in (b) above. The applicant may begin construction, upgrade, or operation upon receipt of written notification of approval of the application from the Authority. Written approval from the Authority may contain additional testing, monitoring and reporting requirements.

(e) Within 10 calendar days of installation of a new facility, Stage I or Stage II controls, or upgrades as provided in SWAPCA 491-020, the owner or operator shall notify the Authority in writing that the activities as identified in the Notice of Construction and associated testing are complete.

Test results shall be submitted to SWAPCA within 14 calendar days of testing.

(f) All Stage I gasoline vapor recovery systems shall have a back pressure/blockage test performed at the time of installation to ensure proper connection and absence of leaks.

(g) All new installations of Stage I and II vapor recovery controls shall have a static pressure decay test performed at the time of installation in accordance with CARB draft TP-201.3 or an Authority approved equivalent. Identification of the test method shall be included in the Notice of Construction application and results of the testing shall be submitted to the Authority with the notification provided in (e) above. The Authority may specify other or additional test requirements in the written Order of Approval. This testing shall be performed annually by each new facility to ensure proper operation. Results of the testing shall be submitted to SWAPCA within 14 calendar days of test completion.

(h) All vacuum assisted Stage II vapor recovery controls shall be performance tested by performance of an air to liquid ratio test at the time of installation. Such testing is in addition to the back pressure/blockage testing and static pressure decay test of items (f) and (g) above and shall be performed in accordance with the CARB Executive Order certifying the equipment, CARB draft test procedure TP-201.5, or an Authority approved equivalent. Identification of the preferred test method shall be included in the Notice of Construction application and results of the testing shall be submitted to the Authority with the notification provided in (e) above. The Authority may specify other or additional test requirements in the written Order of Approval.

(i) Stage I and Stage II vapor recovery equipment shall be maintained in proper working order at all times. All Stage I and Stage II vapor recovery equipment shall be maintained in accordance with the CARB Executive Order(s) certifying the equipment or system. Whenever a Stage I or Stage II gasoline vapor recovery system or component is determined to be defective or not operating properly, the owner or operator shall immediately take the system out of service until repairs are made. Systems shall not be returned to service until the defective system is operating properly.

(j) Delivery rates for the gasoline dispensing systems shall be limited to the rates approved in the CARB Executive Order certifying the equipment or system.

(k) The owner or operator shall submit gasoline throughput figures annually (on a calendar basis) to the Authority by January 31 of each year.

(l) The owner or operator of a gasoline dispensing facility and/or the delivery person shall not permit the loading of gasoline into a gasoline storage tank equipped with vapor recovery fittings from a transport tank equipped with vapor recovery fittings unless the vapor recovery system is attached to the transport tank and operated satisfactorily at all times when fuel is unloaded.

(m) Pressure/vacuum valves shall be installed as required by the CARB Executive Orders that certify the particular Stage I or Stage II vapor recovery equipment. Relief set points shall be adhered to as provided in the applicable CARB Executive Orders and local fire ordinances.

(n) Any alteration of the equipment, parts, design, or operation of the nozzles or gasoline dispensing system as certified by CARB is prohibited, and shall not be performed

without submittal of a Notice of Construction application and prior approval from the Authority.

(o) The Authority shall issue an Order of Authorization to Operate for each gasoline dispensing facility in accordance with SWAPCA 400-111 and 400-230.

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.

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

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

NEW SECTION

SWAPCA 400-111 Authorization to Operate for Non-Major Sources

(1) **Applicability.** Each source required by SWAPCA 400-100 to be registered with the Authority shall have an Order of Authorization to Operate issued by the Authority except those sources subject to the requirements of Title V of the FCAA (RCW 70.94.161), as identified at SWAPCA 400-100(5), 400-101 or SWAPCA 401. Each source shall operate within the requirements, stipulations, conditions and limits identified in the Order of Authorization to Operate. Each source in operation or having emissions to the ambient air without a current Order of Authorization to Operate or other current regulatory order shall be considered in violation of this section and shall be subject to enforcement actions by the Authority.

(2) **Content.** The Order of Authorization to Operate shall reflect the approved equipment and emissions for an entire facility. It is intended to be a summary document that provides general provisions for operations as well as specific provisions from all previously issued regulatory orders that are still current. The Order of Authorization to Operate, or stipulations or provisions contained therein, shall not supersede any Order of Approval issued by the Authority. Each Order of Authorization to Operate shall include the following, as appropriate:

(a) A cover page, signed by the Control Officer or his/her assignee. This page shall include the effective date and expiration date of the Order, provide a brief description of the facility and other source specific information as deemed necessary by the Authority.

(b) An equipment list containing the air contaminant emissions types and quantities, and the process and control equipment associated therewith, as related to air emissions. This list shall contain details and information sufficient to identify specific equipment, processes and emissions. All exempt emission units shall be specifically identified in this section.

(c) A site plan, equipment layout, drawings, sketches and/or process flow schematics.

(d) Operating stipulations identifying operating parameters, requirements and regulations related to the equipment, process(es), and emissions. This list shall identify applicable requirements and provide a summary of the requirements,

limits, stipulations and/or conditions contained in previous Orders of Approval and other orders issued by the Authority. This listing does not in any way alleviate the owner and/or operator from complying with other regulations and requirements not specifically identified in this section.

(e) Emissions estimates including the basis for the estimates and the methodology for arriving at the estimates. This section will also identify approved emission limits from Orders of Approval and other regulatory orders issued by the Authority. Emissions estimates shall be less than the allowable emissions for a facility to be considered in compliance. Emissions estimates as noted in the Order of Authorization to Operate shall be actual emissions, not potential to emit. A facility's potential to emit may also be included in the summary.

(3) **Term.** An Order of Authorization to Operate may be issued by the Authority for a period of up to five years. The term of the Order of Authorization to Operate shall be identified on the Order of Authorization to Operate. Orders of Authorization to Operate are effective on the date of issuance. Each Order of Authorization to Operate may be reissued at any time at the request of the owner or operator, or at the discretion of the Authority. Requirements of the most current Order of Authorization to Operate, after expiration of such order, shall remain in effect until a new or revised Order of Authorization to Operate or other regulatory order has been issued by the Authority.

(4) **Issuance.** The Authority shall prepare and issue an Order of Authorization to Operate for each source required to be registered with SWAPCA in accordance with SWAPCA 400-100. Orders of Authorization to Operate shall be revised and reissued by the Authority. The most current Order of Authorization to Operate for a source shall remain in effect until reissued by the Authority. An Order of Authorization to Operate may or may not be issued or reissued by the Authority at the end of the term if the source is not in compliance with all applicable regulations and previously issued Orders of Approval or other regulatory orders. An Order of Authorization to Operate may be issued, however, for those portions of a facility that are in compliance. Portions of a facility that are not in compliance shall be identified as such in the Order of Authorization to Operate at the time of issuance or reissuance. Once in compliance, the owner or operator may request that the previously non-complying equipment be authorized for operation and the Order of Authorization to Operate revised to include such equipment or processes.

(5) **Revisions.** Revisions to an Order of Authorization to Operate may be made at any time at the discretion of the Authority or at the request of the source. Revisions for the purpose of administrative clarification may be made at any time. Any revisions made shall be consistent with applicable regulations and any other regulatory orders issued by the Authority. Proposed revisions that impact emission control equipment or other process equipment that can effect emissions to the ambient air must be consistent with the New Source Review requirements set forth in SWAPCA 400-110.

(6) **Compliance.** Noncompliance with any provision of an Order of Authorization to Operate shall be a violation of this section and shall be subject to enforcement action by the Authority. Each provision in an Order of Authorization to

Operate shall have a previously established basis in an Order of Approval, previously issued Order of Authorization to Operate, or other regulatory order issued by the Authority, or shall have a basis in an applicable regulation. Violations of this section shall be subject to the regulatory actions set forth in SWAPCA 400-230. Section 113 (e)(2) of the 1990 Clean Air Act Amendments provides that the number of "days of violation" is to be counted beginning on the first proven day of violation and continuing every day until the violator demonstrates that it achieved continuous compliance, unless the violator can prove by preponderance of the evidence that there were intervening days on which no violation occurred. This definition applies to all civil and administrative penalties.

(7) **Public involvement.** The Order of Authorization to Operate is not subject to the notice and comment procedures set forth in SWAPCA 400-171.

AMENDATORY SECTION

SWAPCA 400-112 Requirements for New Sources in Nonattainment Areas

~~((The Authority reviewing an))~~ A Notice of Construction application to establish a new source or make a modification to a source in a nonattainment area, shall result in the issuance of ((issue)) an Order of Approval or other regulatory order, which contains such conditions as are reasonably necessary to assure the maintenance of compliance with this section, if the Authority determines that the proposed project satisfies each of the following requirements:

(1) The proposed new source or modification will comply with all applicable New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, emission standards adopted under Chapter 70.94 RCW and, the applicable emission standards of the Authority.

(2) The proposed new source will employ BACT for all air contaminants, except that if the new source is a major stationary source or the proposed modification is a major modification it must achieve LAER for the contaminants for which the area has been designated nonattainment and for which the proposed new source or modification is major.

(3) The proposed new source will not cause any ambient air quality standard to be exceeded, will not violate the requirements for reasonable further progress established by the Washington State Implementation Plan and will comply with SWAPCA 400-113(3) for all contaminants for which the area has not been designated nonattainment.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification, and the Authority has determined, based on review of an analysis performed by the source of alternative sites, sizes, production processes, and environmental control techniques, that the benefits of the project significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(5) If the proposed new source or the proposed modification is major for the contaminant for which the area is designated nonattainment, allowable emissions of the pollutant for which the area has been designated nonattainment from the proposed new source or modification are offset by reductions in actual emissions of the pollutant for

which the area has been designated nonattainment from existing sources in the nonattainment area so as to represent (when considered together with the nonattainment provisions of section 172 of the FCAA) reasonable further progress. All offsetting emission reductions must satisfy the following requirements:

(a) The proposed new level of allowable emissions of the source or emissions units providing the reduction must be less than the current level of actual emissions of that source or emission unit(s). No emission reduction can be credited for actual emissions which exceed the current allowable emissions of the source or emissions unit(s) providing the reduction. Emission reductions imposed by local, state, or federal regulations, regulatory orders or permits cannot be credited.

(b) The emission reductions must provide for a net air quality benefit.

(i) New major sources within the Portland-Vancouver Ozone Nonattainment Area (which has been designated by EPA as "marginal") shall:

(A) Offset the new VOC emissions at a ratio of 1.1 to 1, if the VOC emissions exceed either 100 tons per year or 700 pounds per day.

(B) Offset the new NO_x emissions at a ratio of 1.1 to 1, if the NO_x emissions exceed either 100 tons per year or 700 pounds per day.

(ii) Sources within the Portland-Vancouver Ozone Nonattainment Area (which has been designated by EPA as "marginal") undergoing major modifications shall:

(A) Offset the entire VOC emissions increase at a ratio of 1.1 to 1, if such increase exceeds either 40 tons per year or 290 pounds per day.

(B) Offset the entire NO_x emissions increase at a ratio of 1.1 to 1, if such increase exceeds either 40 tons per year or 290 pounds per day.

(iii) New major sources within the Portland-Vancouver Carbon Monoxide Nonattainment Area (which has been designated by EPA as "moderate") shall:

(A) Offset the new carbon monoxide emissions at a ratio of 1 to 1, if the carbon monoxide emissions exceed either 100 tons per year or 700 pounds per day.

(iv) Sources within the Portland-Vancouver Carbon Monoxide Nonattainment Area (which has been designated by EPA as "moderate") undergoing major modifications shall:

(A) Offset the entire carbon monoxide emissions increase at a ratio of 1 to 1, if such increase exceeds either 100 tons per year or 700 pounds per day.

(c) If the offsets are provided by another source, the reductions in emissions from that source must be federally enforceable by the time the new or modified source commences operation. The new source may not commence operation before the date such reductions are actually achieved. An emission reduction credit issued under SWAPCA 400-131 may be used to satisfy some or all of the offset requirements of this subsection.

(6) Noncompliance with any stipulation, emission limit, operating parameter, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

~~((6))7~~ If the proposed new source is a major stationary source or the proposed modification is a major modification, the owner or operator has demonstrated that all major stationary sources owned or operated by such person (or by any entity controlling, controlled by, or under common control with such person) in Washington are subject to emission limitations and are in compliance, or on a schedule for compliance, with all applicable emission limitations and standards under the Federal Clean Air Act, including all rules contained in the EPA-approved Washington State Implementation Plan.

~~((7))8~~ If the proposed new source is a major stationary source or the proposed modification is a major modification for the purposes of the PSD program described in SWAPCA ((WAC 173-))400-141 it meets the requirements of that program for all contaminants for which the area has not been designated nonattainment.

~~((8))9~~ If the proposed new source or modification will emit any toxic air pollutants regulated under ~~((Chapter)) WAC 173-460 ((WAC))~~, the source meets all applicable requirements of that Chapter.

~~((9))10~~ If the proposed new source is a major stationary source or the proposed modification is a major modification, the Authority has complied with the visibility protection review requirements of 40 CFR 52.28 (c) through (h), as in effect on ~~((January)) February 1, 199((3))5~~, and determined that the project meets the criteria set forth in 40 CFR 52.28(g). For purposes of this subsection definitions referenced in 40 CFR 52.28(b) are incorporated by reference, except that the term "visibility protection area" means any Class I area, and terms defined in SWAPCA 400-030 shall have the meanings defined in that section. References in 40 CFR 52.28 to "the Administrator" shall mean the agency (either Ecology or the Authority) processing the Notice of Construction application.

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

SWAPCA 400-113 Requirements for New Sources in Attainment or Nonclassifiable Areas

Any person proposing to install, construct or operate a new source or emission unit or modification to an existing source or emission unit shall file a Notice of Construction application with the Authority and shall be subject to the New Source Review provisions of SWAPCA 400-110. Confidential information shall be identified as set forth in SWAPCA 400-270. ((The Authority reviewing an)) A Notice of Construction application to establish a new source or make a modification to a source in an area that is in attainment or unclassifiable for any air contaminant the proposed new source would emit and that is in attainment or unclassifiable for ozone if the proposed new or modified source would emit VOCs or NO_x, shall result in the issuance of ((issue)) an Order of Approval or other regulatory order. Such order shall contain such conditions as are reasonably necessary to assure the maintenance of compliance with this section, if it is determined that the proposed project satisfies all of the following requirements:

PROPOSED

(1) The proposed new source or modification will comply with all applicable New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants, emission standards adopted under Chapter 70.94 RCW and the applicable emission standards of the Authority.

(2) The proposed new source or modification will employ BACT for all pollutants not previously emitted or whose emissions would increase as a result of the new source or modification.

(3) Allowable emissions from the proposed new source or modification will not delay the attainment date for an area not in attainment or unclassifiable nor cause or contribute to a violation of any ambient air quality standard. This requirement will be considered to be met if the projected impact of the allowable emissions from the proposed new source or the projected impact of the increase in allowable emissions from the proposed modification at any location within a nonattainment area does not exceed the following levels for the pollutant(s) for which the area has been designated nonattainment:

<u>Pollutant</u>	<u>Annual Average</u>	<u>24-Hour Average</u>	<u>8-Hour Average</u>	<u>3-Hour Average</u>	<u>1-Hour Average</u>
CO	-	-	0.5 mg/m ³	-	2 mg/m ³
SO ₂	1.0 µg/m ³	5 µg/m ³	-	25 µg/m ³	30 µg/m ³
PM ₁₀	1.0 µg/m ³	5 µg/m ³	-	-	-
NO ₂	1.0 µg/m ³	-	-	-	-

An offsetting emission reduction may be used to satisfy some or all of the requirements of this subsection.

(4) If the proposed new source is a major stationary source or the proposed modification is a major modification for purposes of the PSD program described in SWAPCA ((WAC 173-))400-141, it meets all applicable requirements of that section.

(5) If the proposed new source or the proposed modification will emit any toxic air pollutants regulated under WAC 173-460, the source meets all applicable requirements of that program.

(6) Noncompliance with any stipulation, emission limit, operating parameter, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

((6))7 If, within the meaning of the PSD program described in SWAPCA ((WAC 173-))400-141, the proposed new source is a major stationary source or the proposed modification is a major modification, the source would not cause an adverse impact upon visibility.

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

SWAPCA 400-114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source

(1) Any person proposing to replace or substantially alter the emission control technology installed on an existing stationary source or emission unit shall file a Notice of Construction application with the Authority and shall be subject to the New Source Review process of SWAPCA 400-110. If the replacement or substantial alteration meets the definition of "new source" or "modification" then the new source emissions standards of SWAPCA 400-112 or SWAPCA 400-113 shall apply. If the replacement or substantial alteration does not meet the definition of "new source" or "modification" then RACT or other requirements

shall apply. Replacement or substantial alteration of control technology does not include routine maintenance, repair or parts replacement.

(2) For projects not otherwise reviewable under SWAPCA 400-110, the Authority may:

(a) Require that the owner or operator employ RACT for the affected emission unit;

(b) Prescribe reasonable operation and maintenance conditions for the control equipment; and

(c) Prescribe other requirements authorized by Chapter 70.94 RCW.

(3) Within thirty calendar days of receipt of a Notice of Construction application under this section the Authority shall either notify the applicant in writing that the application is complete or notify the applicant in writing of all additional information necessary to complete the application. Within thirty calendar days of receipt of a complete Notice of Construction application under this section the Authority shall either issue an Order of Approval or a proposed RACT determination for the proposed project.

(4) Construction shall not commence, as defined in SWAPCA 400-030(16), on a project subject to review under this section until the Authority issues a final Order of Approval. However, any Notice of Construction application filed under this section shall be deemed to be approved without conditions if the Authority takes no action within thirty days of receipt of a complete Notice of Construction application. The Authority may request clarification of information submitted in support of the application after the application has been determined to be complete.

(5) An Order of Approval to replace or substantially alter emission control technology shall become invalid if construction is not commenced within eighteen months from the date of issuance of an Order of Approval, if construction is discontinued for a period of eighteen months or more, or if construction is not completed within a reasonable time. The Authority may extend the eighteen month period upon a satisfactory demonstration that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen months of the projected and approved commence-

ment date. The Authority may specify an earlier date for commencement of construction in an Order of Approval.

(6) Noncompliance with any stipulation, emission limit, operating parameter, test requirement, reporting requirement or other requirement identified in a regulatory order issued pursuant to this section shall be considered a violation of this section.

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

SWAPCA 400-115 Standards of Performance for New Sources

Title 40, Code of Federal Regulations, Part 60 (Standards of Performance for New Sources), as in effect on ~~(January)~~ February 1, 199~~((3))~~5, is adopted by reference except for sections 60.5 (Determination of Construction or Modification) and 60.6 (Review of Plans). The term "Administrator" in 40 CFR Part 60 shall mean the Administrator of EPA, the Director of Ecology and the Control Officer of the Authority.

As of ~~(January)~~ February 1, 199~~((3))~~5, the federal regulations adopted by reference hereby set standards of performance affecting facilities for the following described subparts of 40 CFR Part 60:

- Subpart D Fossil fuel-fired steam generators for which construction commenced after August 17, 1971, and prior to September 19, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts (ref. 40 CFR 60.40 et seq.)
- Subpart Da Electric utility steam generating units for which construction commenced after September 18, 1978, which have a heat input greater than 73 megawatts but not greater than 250 megawatts (ref. 40 CFR 60.40a et seq.)
- Subpart Db Industrial-commercial-institutional steam generating units for which construction commenced after June 19, 1984, and prior to June 19, 1986, which have a heat input greater than 29 megawatts but less than 73 megawatts (ref. 40 CFR 60.40b et seq.)
- Subpart Dc Small industrial-commercial-institutional steam generating units (ref. 40 CFR 60.40c et seq.)
- Subpart E Incinerators (ref. 40 CFR 60.50 et seq.)
- Subpart Ea Municipal waste combustors (ref. 40 CFR 60.50a et seq.)
- Subpart F Portland cement plants (ref. 40 CFR 60.60 et seq.)
- Subpart G Nitric acid plants (ref. 40 CFR 60.70 et seq.)

- Subpart H Sulfuric acid plants (ref. 40 CFR 60.80 et seq.)
- Subpart I Asphalt concrete plants (ref. 40 CFR 60.90 et seq.)
- Subpart J Petroleum refineries which produce less than 25,000 barrels per day of refined products (ref. 40 CFR 60.100 et seq.)
- Subpart K Storage vessels for petroleum liquid constructed after June 11, 1973, and prior to May 19, 1978, which have a capacity greater than 40,000 gallons (ref. 40 CFR 60.110 et seq.)
- Subpart Ka Storage vessels for petroleum liquids constructed after May 18, 1978, which have a capacity greater than 40,000 gallons (ref. 40 CFR 60.110a et seq.)
- Subpart Kb Volatile organic liquid storage vessels (including petroleum liquid storage vessels) constructed, reconstructed, or modified after July 23, 1984 (ref. 40 CFR 60.110b et seq.)
- Subpart L Secondary lead smelters (ref. 40 CFR 60.120 et seq.)
- Subpart M Brass and bronze ingot production plants (ref. 40 CFR 60.130 et seq.)
- Subpart N Iron and steel plants (ref. 40 CFR 60.140 et seq.)
- Subpart O Sewage treatment plants (ref. 40 CFR 60.150 et seq.)
- Subpart P Primary copper smelters (ref. 40 CFR 60.160 et seq.)
- Subpart Q Primary zinc smelters (ref. 40 CFR 60.170 et seq.)
- Subpart R Primary lead smelters (ref. 40 CFR 60.180 et seq.)
- Subpart S Primary aluminum reduction plants (ref. 40 CFR 60.190 et seq.)
- Subpart T Phosphate fertilizer industry: Wet process phosphoric acid plants (ref. 40 CFR 60.200 et seq.)
- Subpart U Phosphate fertilizer industry: Superphosphoric acid plants (ref. 40 CFR 60.210 et seq.)
- Subpart V Phosphate fertilizer industry: Diammonium phosphate plants (ref. 40 CFR 60.220 et seq.)
- Subpart W Phosphate fertilizer industry: Triple superphosphate plants (ref. 40 CFR 60.230 et seq.)
- Subpart X Phosphate fertilizer industry: Granular triple superphosphate storage facilities (ref. 40 CFR 60.240 et seq.)
- Subpart Y Coal preparation plants (ref. 40 CFR 60.250 et seq.)
- Subpart Z Ferroalloy production facilities (ref. 40 CFR 60.260 et seq.)
- Subpart AA Steel plants: Electric arc furnaces (ref. 40 CFR 60.270 et seq.)

PROPOSED

Subpart AAa	Steel plants: Electric arc furnaces and argon-oxygen decarburization vessels (<u>ref. 40 CFR 60.270a et seq.</u>)	Subpart III	VOC emissions from Synthetic Organic Chemical Manufacturing Industry air oxidation unit processes (<u>ref. 40 CFR 60.610 et seq.</u>)
Subpart BB	Kraft pulp mills (<u>ref. 40 CFR 60.280 et seq.</u>)	Subpart JJJ	Petroleum dry cleaners (<u>ref. 40 CFR 60.620 et seq.</u>)
Subpart CC	Glass manufacturing plants (<u>ref. 40 CFR 60.290 et seq.</u>)	Subpart KKK	Equipment leaks of VOC from onshore natural gas processing plants (<u>ref. 40 CFR 60.630 et seq.</u>)
Subpart DD	Grain elevators (<u>ref. 40 CFR 60.300 et seq.</u>)	Subpart LLL	Onshore natural gas processing; SO ₂ emissions (<u>ref. 40 CFR 60.640 et seq.</u>)
Subpart EE	Industrial surface coating: Metal furniture (<u>ref. 40 CFR 60.310 et seq.</u>)	Subpart NNN	VOC emissions from Synthetic Organic Chemical Manufacturing Industry distillation operations (<u>ref. 40 CFR 60.660 et seq.</u>)
Subpart GG	Stationary gas turbines (<u>ref. 40 CFR 60.330 et seq.</u>)	Subpart OOO	Nonmetallic mineral processing plants (<u>ref. 40 CFR 60.670 et seq.</u>)
Subpart HH	Lime manufacturing plants (<u>ref. 40 CFR 60.340 et seq.</u>)	Subpart PPP	Wool fiberglass insulation manufacturing plants (<u>ref. 40 CFR 60.680 et seq.</u>)
Subpart KK	Lead-acid battery plants (<u>ref. 40 CFR 60.370 et seq.</u>)	Subpart QQQ	VOC emissions from petroleum refinery waste water emissions (<u>ref. 40 CFR 60.690 et seq.</u>)
Subpart LL	Metallic mineral processing plants (<u>ref. 40 CFR 60.380 et seq.</u>)	Subpart SSS	Magnetic tape coating facilities (<u>ref. 40 CFR 60.710 et seq.</u>)
Subpart MM	Automobile and light duty truck surface coating operations (<u>ref. 40 CFR 60.390 et seq.</u>)	Subpart TTT	Industrial surface coating: Surface coating of plastic parts for business machines (<u>ref. 40 CFR 60.720 et seq.</u>)
Subpart NN	Phosphate rock plants (<u>ref. 40 CFR 60.400 et seq.</u>)	Subpart VVV	Polymeric coating of supporting substrates facilities (<u>ref. 40 CFR 60.740 et seq.</u>)
Subpart PP	Ammonium sulfate manufacture (<u>ref. 40 CFR 60.420 et seq.</u>)		
Subpart QQ	Publication rotogravure printing (<u>ref. 40 CFR 60.430 et seq.</u>)		
Subpart RR	Pressure sensitive tape and label surface coating operations (<u>ref. 40 CFR 60.440 et seq.</u>)		
Subpart SS	Industrial surface coating: Large appliances (<u>ref. 40 CFR 60.450 et seq.</u>)		
Subpart TT	Industrial surface coating: Metal coils (<u>ref. 40 CFR 60.460 et seq.</u>)		
Subpart UU	Asphalt processing and asphalt roofing manufacture (<u>ref. 40 CFR 60.470 et seq.</u>)		
Subpart VV	Synthetic Organic Chemical Manufacturing Industry equipment leaks (VOC) (<u>ref. 40 CFR 60.480 et seq.</u>)		
Subpart WW	Beverage can surface coating operations (<u>ref. 40 CFR 60.490 et seq.</u>)		
Subpart XX	Bulk gasoline terminals (<u>ref. 40 CFR 60.500 et seq.</u>)		
Subpart AAA	New residential wood heaters (<u>ref. 40 CFR 60.530 et seq.</u>)		
Subpart BBB	Rubber tire manufacturing industry (<u>ref. 40 CFR 60.540 et seq.</u>)		
Subpart DDD	VOC emissions from the polymer manufacturing industry (<u>ref. 40 CFR 60.560 et seq.</u>)		
Subpart FFF	Flexible vinyl and urethane coating and printing (<u>ref. 40 CFR 60.580 et seq.</u>)		
Subpart GGG	Petroleum refineries - compressors and fugitive emission sources (<u>ref. 40 CFR 60.590 et seq.</u>)		
Subpart HHH	Synthetic fiber production facilities (<u>ref. 40 CFR 60.600 et seq.</u>)		

Note: For fossil fuel fired steam generators referenced by Subpart D and Da above, units greater than 250 megawatts are governed by the Energy Facility Site Evaluation Council (EFSEC) in Title 463 WAC.

AMENDATORY SECTION

SWAPCA 400-120 Bubble Rules

(1) **Applicability.** The owner(s) or operator(s) of any source(s) may apply for a bubble for any contaminant regulated by state or federal law or regulations established to implement such laws for which the emission requirement may be stated as an allowable limit in weight of air contaminant per unit time for the emissions units involved.

(2) **Conditions.** A bubble may be authorized provided the following conditions have been demonstrated to the satisfaction of the Authority.

(a) The contaminants exchanged must be of the same type, that is, PM₁₀ for PM₁₀, sulfur dioxide for sulfur dioxide, etc.

(b) The bubble will not interfere with the attainment and maintenance of ambient air quality standards.

(c) The bubble will not result in a delay in compliance by any source, nor a delay in any existing enforcement action.

(d) The bubble will not supersede NSPS, NESHAPS, BACT, or LAER. The emissions of hazardous air contaminants shall not be increased.

(e) The bubble will not result in an increase in the sum of actual emission rates of the contaminant involved from the emissions units involved.

(f) A bubble may not be authorized solely for opacity limits. However, if the emission limit for particulates for a given emissions unit is increased as part of a bubble, the opacity limit for the given emissions unit may be increased subject to the following limitations:

(i) The new opacity limit shall be specific for the given emissions unit;

(ii) The new opacity limit shall be consistent with the new particulate matter emission limit(s) and/or PM₁₀ emission limit(s);

(iii) An opacity greater than twenty percent shall never be authorized;

(iv) If the given emissions unit emits or has the potential to emit 100 tons per year or more of particulate matter, the opacity shall be monitored continuously.

(g) The emission limits of the bubble are equivalent to existing limits in enforceability.

(h) Concurrent with or prior to the authorization of a bubble, each emission unit involved in a bubble shall receive or have received a regulatory order or permit that establishes total allowable emissions from the source of the contaminant being bubbled, expressed as weight of the contaminant per unit time.

(i) There will be no net adverse impact upon air quality from the establishment of new emission requirements for a specific source or emissions unit. Determination of net adverse impact shall include but not be limited to public perception of opacity and public perception of odorous contaminants.

(j) Specific situations may require additional demonstration as requested by the Authority.

(3) **Jurisdiction.** Whenever a bubble application involves emissions units, some of which are under the jurisdiction of Ecology and some of which are under the jurisdiction of the Authority, approval will require concurrence by both authorities. The new emission limits for each emissions unit will be enforced by the agency of original jurisdiction.

(4) **Additional information.** Within thirty calendar days, after the receipt of a bubble application and all supporting data and documentation, the Authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty calendar days after all the required information has been received, the Authority shall approve or deny the application, based on a finding that conditions in subsection (2)(a) through (j) of this section have been satisfied or not. If the application is approved, a regulatory order or equivalent document shall be issued which includes new allowable emissions limits expressed in weight of pollutant per unit time for each emissions unit affected by the bubble. The regulatory order or equivalent document shall include any conditions required to assure that subsection (2)(a) through (j) of this section will be satisfied. If the bubble depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document shall prohibit operation of the affected equipment.

AMENDATORY SECTION

SWAPCA 400-130 Acquisition and Use of Emission Reduction Credits

(1) **Applicability.** The owner(s) or operator(s) of any source of emission shall maintain its ability to use said emission and credits through approval and registration with the Authority. If the owner or operator of said emission source fails to maintain or renew its annual registration 6 months beyond the due date or fails to pay its operating permit fee ~~((for one year))~~ 6 months beyond the due date and has not applied for emission reduction credits, then said amount of emission reductions credit shall revert back to the Authority. The Authority shall keep said credits in a credit bank to be used by the Authority in the best interest of the area.

(2) **Conditions for Establishing a Credit Bank.**

(a) Only those quantifiable emissions that are considered surplus over and above those allowed in the Washington State Implementation Plan shall be available for said credit bank.

(b) Surplus emissions shall not have been transferred to another entity for use.

(c) Emission reduction credits established under SWAPCA 400-131 or used under SWAPCA 400-136 for a specific source shall not be included in the bank for public allocation unless specifically requested by the owner(s) or operator(s) of the source making the emissions reduction.

(3) **Use of Credits.**

(a) The ~~((Southwest Air Pollution Control))~~ Authority may authorize, at ~~((their))~~ its discretion, the use of said particulate credits and volatile organic compound credits from the regional emission credit bank for other new air contaminant sources within the specific nonattainment area in the region to satisfy any emission offset requirements. (Reference to Sections 400-110 (3)(e) and 173-400 (6)(d) of the Southwest Air Pollution Control Authority General Regulations and Washington Administrative Codes.)

(b) The ~~((Southwest Air Pollution Control))~~ Authority has established its policy and procedure for distribution of said credits as contained in (4) Maintenance of the Bank.

(4) **Maintenance of the Bank.**

(a) The Authority shall maintain an emission inventory of all allowed and actual emissions in each of the nonattainment areas by pollutant or in the case of ozone, it shall be volatile organic compounds and oxides of nitrogen.

(b) The emission credits contained in the bank shall be discounted by 10% to allow for minor emissions increases in nonattainment areas by minor sources each of which would emit less than one ton per year. Minor emitting sources shall be ineligible to receive or expend an emission reduction credit as identified in SWAPCA 400-131 or 400-136.

(c) The Control Officer shall not provide greater than 10% of the available emission credit in the bank to a single applicant. Any exceptions shall be considered on a case-by-case basis by the Board of Directors after a public notice at the next regularly scheduled meeting.

(d) When the Control Officer issues credits for a new or modified source, the amount of emission credits shall be removed from the bank and a Regulatory Order allocating the emission credits shall be issued. The applicant shall start a continuous program of construction or process modification

within 18 months. If the applicant does not exercise the approval, the emission credit shall expire and revert to the bank. If there is a six (~~an eighteen~~) month delay in construction after the start of a continuous program to construct or modify a source or emissions unit the remaining amount of the emission reduction credit shall be reviewed by the Control Officer and if it is determined that the unused portion of the credit will not, in all likelihood be used in the next year, the Control Officer shall notify the applicant that the credit has expired and shall revert to the bank. The applicant shall reapply, as needed, for use of the emission reduction credits when a continuous program of construction or modification begins.

(5) **Annual Review.** The Authority shall review the content and administration of this section annually to ensure regulatory consistency and equity of impact as a portion of the Washington State Implementation Plan review (~~(, and to ensure regulatory consistency and equity of impact)~~). The results of the review shall be reported to the Board with recommendations for correction if the Control Officer deems that such corrections are necessary to properly administer the emission credit bank.

AMENDATORY SECTION

SWAPCA 400-131 Issuance of Emission Reduction Credits

(1) **Applicability.** The owner(s) or operator(s) of any source(s) may apply to the Authority for an emission reduction credit (ERC) if the source proposes to reduce its actual emissions rate for any contaminant regulated by state or federal law or regulations established to implement such law(s) for which the emission requirement may be stated as an allowable limit in weight of contaminant per unit time for the emissions unit(s) involved.

(2) **Time of application.** The application for an ERC must be made prior to or within one hundred eighty days after the emission reduction has been accomplished.

(3) **Conditions.** An ERC may be authorized provided the following conditions have been demonstrated to the satisfaction of the Authority.

(a) The quantity of emissions in the ERC shall be less than or equal to the old allowable emissions rate or the old actual emissions rate, whichever is the lesser, minus the new allowable emissions rate.

(b) The ERC application must include a description of all the changes that are required to accomplish the claimed emissions reduction, such as, new control equipment, process modifications, limitation of hours of operation, permanent shutdown of equipment, specified control practices and any other pertinent supporting information.

(c) The ERC must be large enough to be readily quantifiable relative to the source strength of the emissions unit(s) involved.

(d) No part of the emission reductions claimed for credit shall have been used as part of a determination of net emission increase, nor as part of an offsetting transaction under SWAPCA 400-112(5) nor as part of a bubble transaction under SWAPCA 400-120 nor to satisfy NSPS, NESHAPS, BACT, (~~(or)~~) LAER or other applicable emission standard.

(e) Concurrent with or prior to the authorization of an ERC, the applicant shall have received a regulatory order or permit that establishes total allowable emissions from the source or emissions unit of the contaminant for which the ERC is requested, expressed as weight of contaminant per unit time.

(f) The use of any ERC shall be consistent with all other federal, state, and local requirements of the program in which it is used.

(4) **Additional information.** Within thirty days after the receipt of an ERC application, supporting data and documentation, the Authority may require the submission of additional information needed to review the application.

(5) **Approval.** Within thirty days after all required information has been received, the Authority shall approve or deny the application, based on a finding that conditions in subsection (3)(a) through (f) of this section have been satisfied or not. If the application is approved, the Authority shall:

(a) Issue a regulatory order or equivalent document to assure that the emissions from the source will not exceed the allowable emission rates claimed in the ERC application, expressed in weight of pollutant per unit time for each emission unit involved. The regulatory order or equivalent document or Order shall include any conditions required to assure that subsection (3)(a) through (f) of this section will be satisfied. If the ERC depends in whole or in part upon the shutdown of equipment, the regulatory order or equivalent document must prohibit operation of the affected equipment; and,

(b) Issue a certificate of emission reduction credit. The certificate shall specify the issue date, the contaminant(s) involved, the emission decrease expressed as weight of pollutant per unit time, the nonattainment area involved, if applicable, and the person to whom the certificate is issued.

AMENDATORY SECTION

SWAPCA 400-136 Use of Emission Reduction Credits

(1) **Permissible use.** An ERC may be used to satisfy the requirements for authorization of a bubble under SWAPCA 400-120, as a part of a determination of "net emissions increase," as an offsetting reduction to satisfy the requirements for new source review per SWAPCA 400-112, SWAPCA 400-113(3) or SWAPCA 400-113(6), or to satisfy requirements for PSD review per SWAPCA (~~(WAC 173-)~~) 400-113(4).

(2) **Surrender of ERC certificate.** When an ERC is used under subsection (1) of this section, the certificate for the ERC must be surrendered to the Authority. If only a portion of the ERC is used, the amended certificate will be returned to the owner.

(3) **Conditions of use.** An ERC may be used only for the contaminant(s) for which it was issued. The Authority may impose additional conditions of use to account for temporal and spatial differences between the emissions unit(s) that generated the ERC and the emissions unit(s) that use the ERC.

(4) **Sale of an ERC.** An ERC may be sold or otherwise transferred to a person other than the person to whom it was originally issued. Within thirty days after the transfer of ownership, the certificate must be surrendered to the

Authority. After receiving the certificate, the Authority shall reissue the certificate to the new owner. The Authority shall update the ERC bank to reflect the availability of ERCs.

(5) **Time of use.** An unused ERC and any unused portion thereof shall expire ten years after the date of original issue. The ten year time period shall restart with each ERC transaction involving the use, lease or sale of emission reduction credits. The emission reduction credits shall be discounted at the applicable ratio, if any, on a one time basis at the time of original issue. Emission reduction credits shall not be discounted each time a transaction is completed.

(6) **Discount due to change in SIP.** If reductions in emissions beyond those identified in the Washington State Implementation Plan are required to meet an ambient air quality standard, if the standard cannot be met through controls on operating sources, and if the plan must be revised, an ERC may be discounted by the Authority after public involvement per SWAPCA 400-171. Any such discount shall not exceed the percentage of additional emission reduction needed to reach attainment.

AMENDATORY SECTION

SWAPCA 400-141 Prevention of Significant Deterioration (PSD)

Section 40 CFR 52.21, Subparts (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (r), (t), (v), and (w), Prevention of Significant Deterioration of Air Quality, as in effect on March 3, 1993, are incorporated by reference with the following additions and modifications:

(1) (~~Construction of~~) **Administrator.**⁽¹⁾ In 40 CFR 52.21 (b)(17), federally enforceable, (f)(1)(v), (f)(3), and (f)(4)(i), exclusions from increment consumption, (g), redesignation, (l) and (2), air quality models, (p)(2), federal land manager, and (t), disputed permits or redesignations, the word "Administrator" shall be construed in its original meaning. In 40 CFR 52.21 (b)(3)(iii) Administrator shall mean the Administrator of EPA, Director of Ecology and Control Officer of the Authority.

(2) **Contemporaneous.** Subpart 40 CFR 52.21 (b)(3)(ii) is changed to read: "An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date ten years before construction on the particular change commences and the date that the increase from the particular change occurs. If a decrease occurred more than one year prior to the date of submittal of the Notice of Construction application for the particular change it can only be credited if the decrease has been documented by an emission reduction credit."

(3) **Public participation.** Subpart 40 CFR 51.166(q) public participation, as in effect March 3, 1993 is hereby incorporated by reference except that in 40 CFR 51.166 (q)(2)(iv), the phrase "specified time period" shall mean thirty days and the word "Administrator" shall mean the EPA Administrator.

(4) **Section 40 CFR 51.166 Subpart (p)(1).** Sources Impacting Federal Class I areas - additional requirements - Notice to EPA, as in effect on March 3, 1993, is herein incorporated by reference.

(5) **Secondary emissions.** Subpart 40 CFR 52.21 (b)(18) is changed to read: Emissions which would occur as

a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this section, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(a) Emissions from ships or trains coming to or from the new or modified stationary source; and

(b) Emissions from any offsite support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

(6) **Significant.** The definition of "significant" in 40 CFR 52.21 (b)(23) is changed to exclude from the list of pollutants which may trigger PSD review any pollutant listed under FCAA §112.

[Note - SWAPCA has not been delegated authority by Ecology for the PSD program.]

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.

SWAPCA 400-151 Retrofit Requirements for Visibility Protection

(1) **Determination of best available retrofit technology (BART).** The Authority shall identify and analyze each source which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I area in Washington and any adjacent state and to determine BART for the contaminant of concern and those additional air pollution control technologies that are to be required to reduce impairment from the source.

(2) **Initially defined BART.** The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART for each contaminant contributing to visibility impairment that is emitted at more than 250 tons per year. Each source for which BART is required must install and operate BART as expeditiously as possible, but in no case later than five years after the conditions are included in a regulatory order.

(3) **Future definitions of BART.** The owner(s) or operator(s) of any source(s) to which significant visibility impairment of a mandatory Class I area is reasonably attributable shall apply BART as new technology becomes available for a contaminant if:

(a) The source emits more than 250 tons per year of the contaminant; and,

(b) The controls representing BART have not previously been required in this section.

(4) **Appeal.** Any source owner or operator required by this section to install, operate, and maintain BART, may apply to the EPA Administrator for an exception from that requirement pursuant to 40 CFR 51.303.

SWAPCA 400-161 Compliance Schedules

(1) **Issuance.** Whenever a source is found to be in violation of an emission standard or other provision of this

regulation the Authority may issue a regulatory order requiring that the source be brought into compliance within a specified time. The order shall contain a schedule for installation of emission control technology, with intermediate benchmark dates and a final completion date, and shall constitute a compliance schedule. Requirements for public involvement (SWAPCA 400-171) must be met.

(2) **Federal action.** A source shall be considered to be in compliance with this regulation if all the provisions of its individual compliance schedule included with a regulatory order are being met. Such compliance does not preclude federal enforcement action by the EPA until and unless the schedule is submitted and adopted as an amendment to the State Implementation Plan.

(3) **Penalties for delayed compliance.** Sources on a compliance schedule but not meeting emissions standards may be subject to penalties as provided in the Federal Clean Air Act.

AMENDATORY SECTION

SWAPCA 400-171 Public Involvement

(1) **Applicability.** The Authority shall provide public notice for a preliminary determination of a regulatory order prior to issuance of the final approval or denial of any of the following types of applications or other actions:

(a) Notice of Construction application for any new or modified source or emissions unit that results in (~~(-if)~~) a significant increase in emissions (actual or potential to emit) of any pollutant regulated by state or federal law (~~(would result)~~) (significant as defined in SWAPCA 400-030). Furthermore, public notice for each regulatory order for a non-significant increase may be provided at the discretion of the Control Officer; or

(b) Any application or other proposed action for which a public hearing is required by PSD rules; or

(c) Any order to determine RACT; or

(d) Any order to establish a compliance schedule or a variance; (~~(or)~~)

(e) The establishment, disestablishment or redesignation of a nonattainment area, or the changing of the boundaries thereof; or

(f) Any order to demonstrate the creditable height of a stack which exceeds the GEP formula height and sixty-five meters, by means of a fluid model or a field study, for the purposes of establishing an emission limitation; or

(g) Any order to authorize a bubble; or

(h) An order issued under SWAPCA 400-09(~~(4)~~)1 which establishes limitations on a source's potential to emit for the purpose of opting out of the Title V Air Operating Permit program (SWAPCA 401); or

(i) Any Notice of Construction application or other proposed action made pursuant to this regulation in which there is a substantial public interest according to the discretion of the Control Officer (~~(Authority)~~)(~~(-)~~);

except:

(j) Any Notice of Construction application or other proposed action which results in a reduction of emissions from a previously established emission limit in an order issued by the Authority that has previously been subjected to public notice, or other permitting authority, may not require public notice in accordance with this section. This exemp-

tion does not apply to those sources opting out of the Title V Air Operating Permit program (SWAPCA 401).

(k) Any Notice of Construction application or other proposed action which does not result in a net emissions increase (actual or potential to emit) unless otherwise required by the Authority.

(2) **Public notice.** Public notice shall be made only after all information required by the Authority has been submitted and after applicable preliminary determinations, if any, have been made. Public notice shall include:

(a) Availability for public inspection in at least one location near the proposed project, of the nonproprietary information submitted by the applicant and of any applicable preliminary determinations, including analyses of the effect(s) on air quality.

(b) Publication in a newspaper of general circulation in the area of the proposed project of notice:

(i) Giving a brief description of the proposal;

(ii) Advising of the location of the documents made available for public inspection;

(iii) Advising of a thirty-day period for submitting written comment to the Authority;

(iv) Advising that a public hearing may be held if the Authority determines within a thirty-day period that significant public interest exists.

(c) A copy of the notice shall be sent to the EPA Regional Administrator.

(d) Public participation procedures for Notice of Construction applications that are processed in coordination with an application to issue or modify an operating permit shall be conducted as provided in (~~(the Operating Permit Rule)~~) SWAPCA 401.

(3) **Public comment.** No final decision on any application or action of any of the types described in subsection (1) of this section, shall be made until the public comment period has ended and any comments received have been considered. Unless a public hearing is held, the public comment period shall be the thirty-day period for written comment published as provided above. If a public hearing is held, the public comment period shall extend through the hearing date and thereafter for such period, if any, as the notice of public hearing may specify.

(4) **Public hearings.** The applicant, any interested governmental entity, any group or any person may request a public hearing within the thirty-day period published as above. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The Authority may, (~~(in its)~~) at the discretion of the Control Officer, hold a public hearing if it determines significant public interest exists. Any such hearing(s) shall be held upon such notice and at a time(s) and place(s) as the Authority deems reasonable.

(5) **Other requirements of law.** Whenever procedures permitted or mandated by law will accomplish the objectives of public notice and opportunity for comment, such procedures may be used in lieu of the provisions of this section.

(6) **Public information.** Copies of Notices of Construction, regulatory orders, and modifications thereof which are issued hereunder shall be available for public inspection on request at the Authority.

SWAPCA 400-172 Technical Advisory Council

(1) **Purpose.** To provide input to the Board of Directors regarding technical and practical aspects of present and proposed regulations. To provide a cross section of knowledge of air quality problems and methods of reducing air pollution in the Southwest Air Pollution Control Authority's jurisdiction.

(2) **Objectives.** Review regulations and make recommendations to conform with the federal and state requirements and SIP.

(a) Study changes of the federal and state clean air acts. Draft and make recommendations for necessary revisions to SWAPCA regulations. Provide technical support for those recommendations.

(b) Participate, as requested by the Board of Directors, in SIP revisions required by the FCAA as the revisions effect the region.

(3) **Committee.** The committee shall consist of at least seven members. These members shall represent, with technical interest, the public at large and the legal profession, with at least two members being representatives of industry. Each member shall retain the right to vote.

(4) **Chair.** The Chair of the Board of Directors shall serve as the ex officio member and Chair of the Technical Advisory Council. The Technical Advisory Council may adopt rules of procedure and shall meet on call subject to timely notice. The Technical Advisory Council shall elect a Vice Chair from the Council who shall retain the right to vote.

(5) **Term of Office.** Members may be appointed for a three year term ending June 30 of the third year of said term. No member shall serve for more than two consecutive three year terms.

SWAPCA 400-180 Variance

Any person who owns or is in control of a plant, building, structure, establishment, process, or equipment may apply to the Authority for a variance from provisions of this chapter governing the quality, nature, duration, or extent of discharges of air contaminants in accordance with the provisions of RCW 70.94.181.

(1) **Jurisdiction.** Sources in any area over which the Authority has jurisdiction shall make application to the Authority. Variances to state rules shall require approval of Ecology prior to being issued by the Authority. The Board of Directors may grant a variance only after public involvement per SWAPCA 400-171.

(2) **Full faith and credit.** Variances granted in compliance with state and federal laws by the Authority for sources under its jurisdiction shall be accepted as variances to this regulation.

(3) **EPA concurrence.** No variance or renewal shall be construed to set aside or delay any requirements of the Federal Clean Air Act except with the approval and written concurrence of the USEPA.

SWAPCA 400-190 Requirements for Nonattainment Areas

The development of specific requirements for nonattainment areas shall include consultation with local government

in the area and shall include public involvement per SWAPCA 400-171.

AMENDATORY SECTION**SWAPCA 400-200 Creditable Stack Height and Dispersion Techniques**

(1) **Applicability.** These provisions shall apply to all sources except:

(a) Stacks for which construction had commenced on or before December 31, 1970, except where pollutants are being emitted from such stacks used by sources which were constructed, or reconstructed, or for which major modifications were carried out after December 31, 1970;

(b) Coal-fired steam electric generating units subject to the provisions of Section 118 of the Federal Clean Air Act, which commenced operation before July 1, 1957, and for whose stacks construction commenced before February 8, 1974;

(c) Flares;

(d) Open burning for agricultural or silvicultural purposes as covered under the Smoke Management Plan;

(e) Residential wood combustion and open burning for which episodic restrictions apply.

These provisions shall not be construed to limit the actual stack height.

(2) **Prohibitions.** No source may use dispersion techniques or excess stack height to meet ambient air quality standards or PSD increment limitations.

(a) Excess stack height. Excess stack height is that portion of a stack which exceeds the greater of:

(i) Sixty-five meters (213.25 feet), measured from the ground level elevation at the base of the stack; or

(ii) $H_g = H + 1.5L$ where:

H_g = "good engineering practice" (GEP) stack height, measured from the ground level elevation at the base of the stack, H = height of nearby structure(s) measured from the ground level elevation at the base of the stack, L = lesser dimension, height or projected width, of nearby structure(s), subject to the provisions below.

"Nearby," as used in this subsection for purposes of applying the GEP formula means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 kilometer (1/2 mile).

(b) Dispersion techniques. Increasing final exhaust gas plume rise by manipulating source process parameters, exhaust gas parameters, stack parameters, or combining exhaust gases from several existing stacks into one stack; or other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise. This does not include:

(i) The reheating of a gas stream, following the use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the facility generating the gas stream;

(ii) The merging of gas streams where:

(A) The source was originally designed and constructed with such merged gas streams, as demonstrated by the source owner(s) or operator(s).

(B) Such merging is part of a change in operation at the facility that includes the installation of pollution controls and

is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion shall apply only to the emission limitation for the pollutant affected by such change in operation.

(C) Before July 8, 1985, such merging was part of a change in operation at the facility that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons, and not primarily motivated by an intent to gain emissions credit for greater dispersion.

(3) **Exception.** The Authority may require the use of a field study or fluid model to verify the creditable stack height for the source. This also applies to a source seeking credit after the effective date of this rule for an increase in existing stack height up to that established by the GEP formula. A fluid model or field study shall be performed according to the procedures described in the *EPA Guideline for Determination of Good Engineering Practice Height* (Technical Support Document of the Stack Height Regulations). The creditable height demonstrated by a fluid model or field study shall ensure that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures or nearby terrain features.

(a) "Nearby," as used in this subsection for conducting a field study or fluid model, means not greater than 0.8 km, except that the portion of a terrain feature may be considered to be nearby which falls within a distance of up to ten times the maximum height of the feature, not to exceed two miles if such feature achieves a height 0.8 km from the stack that is at least forty percent of the GEP stack height or twenty-six meters ((€)), whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

(b) "Excessive concentration" is defined for the purpose of determining creditable stack height under this subsection and means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over an ambient air quality standard. For sources subject to PSD review (WAC 173-400-141 and 40 CFR 52.21) an excessive concentration alternatively means a maximum ground-level concentration owing to a significant downwash effect which contributes to excursion over a PSD increment. The emission rate used in this demonstration shall be the emission rate specified in the State Implementation Plan, or in the absence of such, the actual emission rate of the source. "Significant downwash effect" means a maximum ground-level concentration due to emissions from a stack due in whole or in part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features which individually is at least forty percent in excess of the maximum concentration experienced in the absence of such downwash, wakes, or eddy effects.

SWAPCA 400-205 Adjustment for Atmospheric Conditions

Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant is prohibited, except as directed according to air

pollution episode regulations as specified at SWAPCA 400-230(5).

SWAPCA 400-210 Emission Requirements of Prior Jurisdictions

Any emissions unit that was under the jurisdiction of the Authority and now is under the jurisdiction of Ecology, shall meet all emission requirements that were applicable prior to transfer of jurisdiction if those standards are more stringent than the standards of this regulation or the specific regulation relating to that source.

SWAPCA 400-220 Requirements for Board Members

(1) **Public interest.** A majority of the members of the Authority's Board of Directors shall represent the public interest. A majority of the members of the Board, shall not derive any significant portion of their income from persons subject to enforcement orders pursuant to the State and Federal Clean Air Acts. An elected public official and the Board shall be presumed to represent the public interest. In the event that a member derives a significant portion of his/her income from persons subject to enforcement orders, he/she shall delegate sole responsibility for administration of any part of the program which involves these persons to an assistant.

(2) **Disclosure.** Each member of the Authority's Board of Directors shall adequately disclose any potential conflict of interest in any matter prior to any action or consideration thereon, and the member shall remove themselves from participation as a Board member in any action or voting on such matter.

(3) **Define significant income.** For the purposes of this section, "significant portion of income" shall mean twenty percent of gross personal income for a calendar year. In the case of a retired person, "significant portion of income" shall mean fifty percent of income in the form of pension or retirement benefits from a single source other than Social Security. Income derived from employment with local or state government shall not be considered in the determination of "significant portion of income".

AMENDATORY SECTION

SWAPCA 400-230 Regulatory Actions & Civil Penalties

1. The Authority shall have the power to issue such orders as necessary to effectuate the purpose of RCW 70.94 as provided in, including but not limited to: RCW 70.94.141, RCW 70.94.152, RCW 70.94.153, and RCW 70.94.332. The Authority may issue orders for establishing limits and controls for sources of emissions to the ambient air or otherwise controlling activities that may violate any ambient air quality regulations, including but not limited to the following:

(a) Order of Approval. An Order of Approval may be issued by the Authority to provide approval for a Notice of Construction application. An Order of Approval shall contain the following, as appropriate: reference to applicable regulations, emissions limitations, control and process equipment operating conditions and limits, testing requirements, monitoring and reporting requirements, and other conditions considered necessary by the Authority. An Order

of Approval which constitutes the final determination of the Authority, shall be issued within sixty (60) calendar days of a complete application or for those projects subject to public notice, as promptly as possible after the 30 calendar day public notice requirements have been satisfied. An Order of Approval may not identify all applicable regulations. All Orders of Approval may be subject to the public notice and comment procedures set forth in SWAPCA 400-171 (2), (3), and (4).

(b) Order of Denial. An Order of Denial may be issued by the Authority in response to a Notice of Construction application that is incomplete, not feasible, proposes inadequate control technology, or otherwise would result in violation of any ambient air quality regulation, control technology requirement, or emission standards in the area in which the equipment would be located and operated. All Orders of Denial shall be subject to the public notice and comment procedures set forth in SWAPCA 400-171 (2), (3), and (4).

(c) Order of Violation. An Order of Violation may be issued by the Authority to document specific regulation(s) alleged to be violated and establish the facts surrounding a violation. An Order of Violation may be prepared by the Authority only after formal written notice has been served on the source as provided in (2) below. The Order of Violation shall not be subject to the public notice and comment period set forth in SWAPCA 400-171.

(d) Order of Prevention. An Order of Prevention may be issued by the Authority to a source to prevent installation or construction of an emission unit, performance of an activity, or actions that may otherwise endanger public health that are on site, in the process of being installed, or have been installed, constructed or operated without prior Authority review and approval or actions are being conducted in addition to a previous Authority approval without prior approval. An Order of Prevention shall not be subject to the public notice and comment period set forth in SWAPCA 400-171.

(e) Consent Order. A Consent Order may be issued by the Authority to establish emission limits, operation and maintenance limits or controls, monitoring or reporting requirements, testing requirements, or other limits or controls as necessary that are determined by the Authority to be necessary. Actions identified in a Consent Order may be necessary to demonstrate compliance with applicable regulations, provide measures whereby a source may take the necessary steps to achieve compliance, establish a schedule for activities, or provide other information that the Control Officer deems appropriate. The Consent Order shall be agreed to and signed by an appropriate officer of the company or source for which the Consent Order is prepared and the Control Officer, or designee, of the Authority. Installation, construction, modification or operation of a source shall be subject to the New Source Review requirements of SWAPCA 400-110. A Consent Order shall not be subject to the public notice and comment period set forth in SWAPCA 400-171 at the discretion of the Control Officer.

(f) Compliance Schedule Order. A Compliance Schedule Order may be issued by the Authority to a source to identify specific actions that must be implemented to establish, maintain, and/or demonstrate compliance with applicable regulations and identify the schedule by which

these actions must be completed. All Compliance Schedule Orders shall be subject to the public notice and comment period set forth in SWAPCA 400-171 (2), (3), and (4). Refer to SWAPCA 400-161 for further guidance.

(g) Order of Discontinuance. The Authority may issue an Order of Discontinuance for any source that has discontinued operations and/or has not maintained their source registration for emission units. (Refer to SWAPCA 400-100 (2)(d)). An Order of Discontinuance may also be issued to a source that continues to operate in violation of applicable regulations and requirements. Such issuance may require that the source cease operations that result in emissions to the ambient air that are in violation of applicable regulatory orders, requirements and regulations.

(i) Any source that fails to maintain registration fees (i.e., payment of registration fees by July 31 of each year), may be issued an Order of Discontinuance. The Order of Discontinuance shall identify the source location and emission units and identify the most current registration activity.

(ii) The Order of Discontinuance shall provide for discontinuance of operations at that source or facility and all previous authorizations, orders, agreements or stipulations shall be superseded, directly or indirectly, by the Order of Discontinuance without specific identification in the Order of Discontinuance.

(iii) The Order of Discontinuance shall be subject to the public notice and comment procedures set forth in SWAPCA 400-171 (2), (3), and (4).

(iv) For sources that have ceased doing business in SWAPCA jurisdiction, or the state of Washington, the Authority shall make a reasonable effort to establish contact with the source. If the Authority is unable to establish contact with the source, the Authority shall issue an Order of Discontinuance via certified mail, return receipt requested, to the last known address. Lack of response by the source or return of the notification by the US Postal Service shall be considered de facto evidence that the source has discontinued operations.

(v) The source shall have 30 calendar days from the date of the final regulatory order after public notice in which to pay past due and current registration fees. If the source fails to pay current registration fees, the source or facility shall be considered discontinued and shall be required to submit a Notice of Construction application under the New Source Review procedures of SWAPCA 400-110 prior to resuming or restarting operations.

(vi) Facilities that terminate operations and discontinue paying registration fees, and are later sold with the intent of restart, in whole or in part, shall be subject to the New Source Review requirements of SWAPCA 400-110.

(vii) Sources that continue to operate in violation of established regulatory orders and regulations, the Authority may issue an Order of Discontinuance that is effective immediately.

(h) Corrective Action Order. The Authority may issue a Corrective Action Order to any source within its jurisdiction, including an unregistered source, to provide measures to correct or rectify a situation that has immediate or eminent threat to person(s) or the public or that may be in violation or have the potential of being in violation of federal, state and local regulations or may pose a threat to

the public health, welfare or enjoyment of personal or public property. The Corrective Action Order may specify specific actions that must be implemented to demonstrate compliance with applicable regulations and identify dates by which these actions must be completed. All actions and dates identified in the Corrective Action Order shall be fully enforceable. Corrective Action Orders shall be issued to correct immediate problems. Corrective Action Orders shall not be subject to the public notice and comment period set forth in SWAPCA 400-171.

(i) Administrative Order. An Administrative Order may be issued to a source by the Authority to provide for implementation of items not addressed above, that are identified by the Control Officer. An Administrative Order may contain emission limits, operating and maintenance limitations and actions, schedules, resolutions by the Board of Directors, provide for establishing attainment or nonattainment boundaries, establish working relationships with other regulatory agencies, establish authority for enforcement of identified actions, and other activities identified by the Authority. All Administrative Orders shall be subject to the public notice and comment procedures set forth in SWAPCA 400-171 (2), (3), and (4).

(j) Order of Authorization to Operate. An Order of Authorization to Operate shall be issued to each registered source as provided in SWAPCA 400-111. An Order of Authorization to Operate shall not be issued to major sources (sources subject to RCW 70.94.161 or SWAPCA 401). Orders of Authorization to Operate shall be subject to the requirements set forth in SWAPCA 400-111.

(k) Resolutions. A Resolution may be issued by the Authority as a means to document or record a Board of Directors decision, authorize or approve budget transactions, establish policies, or other actions as determined by the Authority. Resolutions shall not be subject to the public notice and comment procedures set forth in SWAPCA 400-171.

2. The Authority may take any of the following regulatory actions to enforce its regulations to meet the provisions of RCW 43.21B.300 which is incorporated herein by reference.

((+)) (a) Enforcement Actions by the Authority—Notice of Violation. At least thirty days prior to the commencement of any formal enforcement action under RCW 70.94.430 and 70.94.431, the Authority shall cause written notice to be served upon the alleged violator or violators. The notice shall specify the provision of this regulation, or the rule, ~~((#))~~ regulation, regulatory order or permit requirement alleged to be violated, and the facts alleged to constitute a violation thereof, and may include an order that necessary corrective action be taken within a reasonable time. In lieu of an order, the Authority may require that the alleged violator or violators appear before it for the purpose of providing the Authority information pertaining to the violation or the charges complained of. Every Notice of Violation shall offer to the alleged violator an opportunity to meet with the Authority prior to the commencement of enforcement action. Enforcement action may be commenced by the Authority by issuance of a regulatory order as provided in SWAPCA 400-230(1).

((2)) (b) Civil Penalties.

~~((#))~~ (i) In addition to or as an alternate to any other penalty provided by law, any person who violates any of the provisions of Chapter 70.94 or 70.120 RCW, or any of the rules in force under such chapters may incur a civil penalty in an amount as set forth in RCW 70.94.431. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation. Any person who fails to take action as specified by an order issued pursuant to this regulation shall be liable for a civil penalty as set forth by RCW 70.94.431 for each day of continued noncompliance.

~~((#))~~ (ii) Penalties incurred but not paid shall accrue interest, beginning on the ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal. The maximum penalty amounts established in RCW 70.94.431 may be increased annually to account for inflation as determined by the State Office of the Economic and Revenue Forecast Council.

~~((#))~~ (iii) Each act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300. Section 113 (e)(2) of the 1990 Clean Air Act Amendments provides that the number of "days of violation" is to be counted beginning on the first proven day of violation and continuing every day until the violator demonstrates that it achieved continuous compliance, unless the violator can prove by preponderance of the evidence that there were intervening days on which no violation occurred. This definition applies to all civil and administrative penalties.

~~((#))~~ (iv) All penalties recovered under this section by the Authority, shall be paid into the treasury of the Authority and credited to its funds.

~~((#))~~ (v) To secure the penalty incurred under this section, the Authority shall have a lien on any equipment used or operated in violation of its regulations which shall be enforced as provided in RCW 60.36.050. The Authority shall also be authorized to utilize a collection agency for nonpayment of penalties and fees.

~~((#))~~ (vi) In addition to other penalties provided by this regulation, persons knowingly under-reporting emissions or other information used to set fees, or persons required to pay emission or permit fees who are more than ninety days late with such payments may be subject to a penalty equal to three times the amount of the original fee owed.

(3) Assurance of Discontinuance. The Control Officer may accept an assurance of discontinuance as provided in RCW 70.94.435 of any act or practice deemed in violation of this regulation as written and certified to by the source. Any such assurance shall specify a time limit during which discontinuance or corrective action is to be accomplished. Failure to perform the terms of any such assurance shall constitute prima facie proof of a violation of its regulations or any order issued thereunder which make the alleged act or practice unlawful for the purpose of securing an injunction or other relief from the Superior Court.

(4) **Restraining Orders~~(s)~~ & Injunctions.** Whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of its regulations, the Control Officer, after notice to such person and an opportunity to comply, may petition the superior court of the county wherein the violation is alleged to be occurring or to have occurred for a restraining order or a temporary or permanent injunction or another appropriate order.

(5) **Emergency Episodes.** The Authority may issue such orders as authorized by WAC 173-435 via Chapter 70.94 RCW, whenever an air pollution episode forecast is declared.

(6) **Compliance Orders.** The Authority may issue a compliance order in conjunction with a Notice of Violation or when the Control Officer has reason to believe a regulation is being violated, or may be violated. The order shall require the recipient of the Notice of Violation either to take necessary corrective action or to submit a plan for corrective action and a date when such action will be initiated and completed.

SWAPCA 400-240 Criminal Penalties

Persons in violation of the Authority's regulations or Title 173 WAC may be subject to the provisions of RCW 70.94.430.

AMENDATORY SECTION

SWAPCA 400-250 Appeals

(1) Any decision or regulatory o~~(t)~~ order issued by ~~(o~~f~~)~~ the Authority may be appealed to the Board of Directors as provided herein or appealed directly to the Pollution Control Hearings Board as provided by RCW 43.21B and WAC 371-08. In addition, Orders of Approval and permits issued in accordance with the PSD program may be appealed to the EPA Environmental Appeals Board, to the extent authorized in 40 CFR 124. If appealed to the Board of Directors, the procedure shall be as follows:

(a) The decision, Notice of Violation, or Order issued by the Control Officer shall become final unless, not later than 15 calendar days after the date the Order is served upon the owner or applicant, the owner or applicant petitions the Control Officer for reconsideration, with reasons for the reconsideration. If the Control Officer refuses to reconsider, the Control Officer shall so notify the owner or applicant in writing, giving reasons for the decision. Such ruling on the petition shall become final unless not later than 15 calendar days after such notice of refusal is served, the owner or applicant appeals to the Board setting forth the reasons for the appeal.

(b) The Control Officer may reverse or modify the Order and issue such an Order in replacement thereof as deemed proper. Such Order also may be appealed to the Board of Directors as in (a) above.

(c) Any failure of the Control Officer to act upon a petition for reconsideration 15 calendar days after the petition is delivered to the Authority, shall be considered as a refusal to reconsider.

(d) In lieu of a petition for reconsideration, the owner or applicant may appeal directly to the Board of Directors within the time specified in (a) above.

(2) The Board shall promptly hear and consider all appeals after providing reasonable notice to the appellant. The Board shall, within 30 calendar days of the hearing sustain, reverse or modify the Order of the Control Officer as it deems proper. Such ruling of the Board shall be communicated to the appellant in writing and the appellant if aggrieved, may appeal de novo to the Pollution Control Hearings Board as provided in RCW 43.21B.120 and WAC 371-08.

(3) It is the intent of the Board in establishing this regulation concerning appeals to provide for a method of resolving issues at the Authority level. Consequently, Decisions and Orders of the Control Officer on compliance, new source review, or any other matter regulated herein except violations shall not be considered as commencing any appeal period for appeals to the Pollution Control Hearings Board. Such appeal period shall commence only when the final Order is issued by the Board of Directors and served upon the person aggrieved as provided in RCW 43.21B.120.

(4) Nothing contained herein shall be construed as denying the exclusive jurisdiction of the Pollution Control Hearings Board on violations as provided by RCW 43.21B.120.

SWAPCA 400-260 Conflict of Interest

All board members and officials acting or voting on decisions affecting air pollution sources, must comply with the Federal Clean Air Act, as it pertains to conflict of interest, and 40 CFR 103(d) which is incorporated by reference.

NEW SECTION

SWAPCA 400-270 Confidentiality of Records and Information

(1) The owner or operator (or person submitting the information) is responsible for clearly identifying the information that is considered proprietary and confidential prior to submittal to the Authority. Information submitted to the Authority that has not been identified as confidential at the time of submittal may not be classified as confidential at a later date.

(2) Confidential information submitted to the Authority by an owner or operator shall be stamped or clearly marked in red ink at the time of submittal. Such information considered to be confidential or proprietary by the owner or operator will be handled as such, and will be maintained by the Authority, to the extent that release of such information may provide unfair economic advantage or compromise processes, products, or formulations to competitors as provided under RCW 70.94.205. Requests for such information under the Freedom of Information Act shall be released only after:

(a) Legal opinion by the Authority's legal counsel, and

(b) Notice to the source of the intent to either release or deny the release of information.

(3) Records or other information, other than ambient air quality data or emission data, furnished to or obtained by the Authority, related to processes or production unique to the owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only

for the confidential use of the Authority as provided in RCW 70.94.205.

(4) Emissions data furnished to or obtained by the Authority shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at the office of the Authority.

NEW SECTION

SWAPCA 400-280 Powers of Authority

In addition to any other powers vested in the Authority, consistent with RCW 70.94.141, the Authority shall have the power to:

(1) Adopt, amend, and repeal its own rules and regulations, implementing RCW 70.94 and consistent with it, after consideration at a public hearing held in accordance with RCW 42.30. Rules and regulations shall also be adopted in accordance with the notice and adoption procedures set forth in RCW 34.05.320, those provisions of RCW 34.05.325 that are not in conflict with RCW 42.30, and with the procedures of RCW 34.05.340, 34.05.355 through 34.05.380, and with RCW 34.08, except that rules shall not be published in the Washington Administrative Code. Judicial review of rules adopted by the Authority shall be in accordance with Part V of RCW 34.05.

(2) Hold hearings relating to any aspect of or matter in the administration of RCW 70.94 not prohibited by the provisions of Chapter 62, Laws of 1970 ex. sess. and in connection therewith issue subpoenas to compel the attendance of witnesses and the production of evidence, administer oaths and take the testimony of any person under oath.

(3) Issue such orders as may be necessary to effectuate RCW 70.94 and enforce the same by all appropriate administrative and judicial proceedings subject to the rights of appeal as provided in Chapter 62, Laws of 1970 ex. sess.

(4) Require access to records, books, files and other information specific to the control, recovery or release of air contaminants into the atmosphere.

(5) Secure necessary scientific, technical, administrative and operational services, including laboratory facilities, by contract, or otherwise.

(6) Prepare and develop a comprehensive plan or plans for the prevention, abatement and control of air pollution within the jurisdiction of the Authority.

(7) Encourage voluntary cooperation by persons or affected groups to achieve the purposes of RCW 70.94.

(8) Encourage and conduct studies, investigations and research relating to air pollution and its causes, effects, prevention, abatement and control.

(9) Collect and disseminate information and conduct educational and training programs relating to air pollution.

(10) Advise, consult, cooperate and contract with agencies and departments and the educational institutions of the state, other political subdivisions, industries, other states, interstate or interlocal agencies, and the United States government, and with interested persons or groups.

(11) Consult, upon request, with any person proposing to construct, install, or otherwise acquire an air contaminant source or device or system, concerning the efficacy of such device or system, or the air pollution problems which may be related to the source, device or system. Nothing in any

such consultation shall be construed to relieve any person from compliance with RCW 70.94, ordinances, resolutions, rules and regulations in force pursuant thereto, or any other provision of law.

(12) Accept, receive, disburse and administer grants or other funds or gifts from any source, including public and private agencies and the United States government for the purpose of carrying out any of the functions of RCW 70.94.

WSR 95-03-014
PROPOSED RULES
HIGHER EDUCATION
COORDINATING BOARD
[Filed January 6, 1995, 1:32 p.m.]

Original Notice.

Title of Rule: State need grant program.

Purpose: 1. Recognize the new names of three accrediting associations traditionally referenced by the board as a necessary qualification for institutional participation in the state need grant program; 2. Include, as eligible for the state need grant, disadvantaged students who complete board approved early awareness programs; 3. Establish a higher base grant for qualifying disadvantaged students; and 4. Clarify that the 1992-93 dollar values comprising the statutory ceiling constitute an example of how the ceiling will be calculated in succeeding years.

Statutory Authority for Adoption: Chapter 28B.80 RCW.

Statute Being Implemented: RCW 28B.10.800 - [28B.10].822.

Summary: These rules recognize the new names of currently accepted accrediting associations, clarify the definition of disadvantaged students, permit higher grants to such students, and clarify the example of statutory ceiling.

Reasons Supporting Proposal: Improve public understanding of institutional eligibility criteria and statutory ceiling, plus provide support to certain disadvantaged students.

Name of Agency Personnel Responsible for Drafting and Implementation: John Klacik, 917 Lakeridge Way, Olympia, WA, 753-7851; and Enforcement: Shirley Ort, 917 Lakeridge Way, Olympia, WA, 753-7840.

Name of Proponent: Higher Education Coordinating Board, 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: See Purpose above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No.

Hearing Location: Conference Room (Third Floor), Higher Education Coordinating Board, 917 Lakeridge Way, Olympia, WA, on February 21, 1995, at 1:00 p.m. - 3:00 p.m.

Assistance for Persons with Disabilities: Contact Lisa Critchfield by February 21, 1995, TDD (360) 753-7809.

Submit Written Comments to: John Klacik, Higher Education Coordinating Board, 917 Lakeridge Way, P.O.

Box 43430, Olympia, WA, FAX (360) 753-7808, by
February 21, 1995.

Date of Intended Adoption: March 15, 1995.

January 6, 1995

John Klacik
Associate Director for
Student Financial Aid

AMENDATORY SECTION (Amending WSR 93-08-010,
filed 3/25/93, effective 4/25/93)

WAC 250-20-011 Student eligibility. For a student to be eligible for a state need grant he or she must:

(1) Be a "needy student" (~~(or "disadvantaged student")~~) as determined by the higher education coordinating board in accordance with RCW 28B.10.802 or be a "disadvantaged student" who has completed a board approved program designed to promote early awareness of, and aspiration to, higher education.

(2) Be a resident of the state of Washington.

(3) Be enrolled or accepted for enrollment as an undergraduate student at a participating postsecondary institution or be a student under an established program designed to qualify him or her for enrollment as a full-time student at a postsecondary institution in the state of Washington.

(a) For purposes of need grant eligibility, the student must be enrolled, at time of disbursement, in a course load of at least six credits per quarter or semester or, in the case of institutions which do not use credit hours, twelve clock hours per week.

(b) A student enrolled less than half time may not receive this grant for the term in question, but is eligible for reinstatement or reapplication for a grant upon return to at least a half-time status. Correspondence courses may not comprise more than one-half of the student's minimum credit load for which aid is being considered.

(4) Maintain satisfactory progress as defined in WAC 250-20-021(19).

(5) Not be pursuing a degree in theology.

(6) Not have received a state need grant for more than the equivalent of ten full-time semesters or fifteen full-time quarters or equivalent combination of these two. Upon receipt of a bachelor's degree, a student is no longer eligible.

(7) Have made a bona fide application for a Pell grant.

(8) Certify that he or she does not owe a refund on a state need grant, a Federal Pell Grant or a Federal Supplemental Educational Opportunity Grant, and is not in default on a loan made, insured, or guaranteed under the Federal Family Education Loan Program, the Federal Perkins Loan Program, or the Federal Direct Loan Demonstration Program.

AMENDATORY SECTION (Amending WSR 93-08-010,
filed 3/25/93, effective 4/25/93)

WAC 250-20-021 Program definitions. (1) The term "needy student" shall mean a post-high school student of an institution of postsecondary education who demonstrates to the higher education coordinating board the financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter. The determination of need shall be made in accordance with

federal needs analysis formulas and provisions as recognized and modified by the board.

(2) The term "disadvantaged student" shall mean a (~~post-high school~~) student who by reason(~~(of)~~)s of adverse cultural, educational, environmental, experiential(~~(of)~~)s, or familial circumstance is (~~unable to qualify for enrollment as a full-time student in a postsecondary institution, and who otherwise qualifies as a needy student and who is attending a postsecondary educational institution under an established program designed to qualify him or her for enrollment as a full-time student~~) unlikely to aspire to, or enroll in, higher education. Generally, this shall mean a dependent student whose parents have not attained a college education and/or whose family income is substantially below the state's median.

(3) The term "postsecondary institution" shall mean any public university, college, community college, or vocational-technical institute operated by the state of Washington 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 one of the following accrediting associations: The Northwest Association of Schools and Colleges, the (~~Career College Association~~) Accrediting Commission of Career Schools and Colleges of Technology, the Accrediting Council of Independent Colleges and Schools, or the (~~Cosmetology Accrediting Commission~~) National Accrediting Commission of Cosmetology Arts and Sciences, and if 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 one of the above named accrediting associations.

(4) "Washington resident" shall be defined as an individual who satisfies the requirements of RCW 28B.15.011 through 28B.15.013 and board-adopted rules and regulations pertaining to the determination of residency.

(5) "Dependent student" shall mean any post-high school student who does not qualify as an independent student in accordance with WAC 250-20-021(6).

(6) "Independent student" shall mean any student who qualifies as an independent student for the receipt of federal aid. These qualifications include a student who has either:

(a) Reached his or her twenty-fourth birthday before January 1st of the aid year; or,

(b) Is a veteran of the U.S. Armed Forces; or,

(c) Is an orphan or ward of the court; or,

(d) Has legal dependents other than a spouse; or,

(e) Is a married student or a graduate/professional student; or,

(f) Is determined to be independent for the receipt of federal aid on the basis of the professional judgment of the aid administrator.

(7) Definitions of "undergraduate students" will be in accord with definitions adopted for institutional use by the board.

(8) "Student budgets" shall consist of that amount required to support an individual as a student for nine months and may take into consideration cost factors for maintaining the student's dependents. This should be the

amount used to calculate the student's total need for all state and federal funds.

(9) "State need grant cost-of-attendance" is the standard student cost per sector, as developed by the board.

(a) The costs-of-attendance for each sector are calculated by adding together a standard maintenance allowance for books, room, board, transportation and personal items, for all undergraduate students statewide as developed by the Washington Financial Aid Association, and the sector's regular tuition and fees for full-time, resident, undergraduate students.

(b) In no case may the costs-of-attendance exceed the statutory ceiling established by RCW 28B.10.808(4). The ceiling is calculated by adding together the same standard maintenance allowance used in determining the state need grant cost-of-attendance, plus the regular tuition and fees charged for a full-time resident undergraduate student at a research university, plus the current average state appropriation per student for operating expenses in all public institutions.

(c) For example, in the 1992-93 academic year, the value of the statutory ceiling is \$13,783. This value is composed of the Washington Financial Aid Association's maintenance budget of \$6,964, plus the regular tuition and fees charged for a resident undergraduate student at a research university of \$2,274, plus the current average state appropriation per student for operating expenses in all public institutions of \$4,545.

(d) The value of each element used in the construction of the statutory ceiling will be updated annually.

The higher education coordinating board will consult with appropriate advisory committees and the representative association of student financial aid administrators, to annually review and adjust the costs-of-attendance. The costs-of-attendance for each sector will be published concurrent with annual guidelines for program administration.

(10) "Family income" is the student's family income for the calendar year prior to the academic year for which aid is being requested.

(a) Income means adjusted gross income and nontaxable income as reported on the federally prescribed application for federal student aid.

(b) For the dependent student family income means parental income.

(c) For the independent student family income means the income of the student and any other adult, if any, reported as part of the student's family.

(d) The institutional aid administrator may adjust the family's income up or down to more accurately reflect the family's financial situation during the academic year. When such adjustments are made they shall be consistent with guidelines for making changes to determine federal student aid eligibility.

(11) "Income cutoff" means the amount of family income below which a student is determined to be eligible for the state need grant. The cutoff shall be expressed as a percent of the state's median family income. The exact point of cutoff shall be determined each year by the board based on available funding. In no case will the minimum income cutoff be less than sixty-five percent of the state's median family income, regardless of program funding.

(12) "Median family income" is the median income for Washington state, adjusted by family size and reported annually in the federal register.

(13) "Maximum base grant" is a percentage of the state need grant costs-of-attendance for each sector. The percentage will be no less than fifteen percent and no more than twenty percent, dependent each year upon available funding. The maximum base grant may be further adjusted according to the student's family income level and rate of enrollment as described in WAC 250-20-041.

For certain students who have completed board approved early awareness and preparation programs such as the Washington National Early Intervention Scholarship Program or a Trio program, the base grant will be an amount fixed annually by the board. Generally the base grant, in these cases, will be no less than the current value of the federal PELL grant program.

(14) "Dependent care allowance" is a flat grant amount, to be determined by the board, which is in addition to the student's eligibility for the base grant. The allowance is awarded to those students who have dependents in need of care. The dependent must be someone (other than a spouse) living with the student. Care must be that assistance provided to the dependent which is paid to and provided by someone outside of the student's household.

(15) "State need grant award" is the maximum base grant adjusted according to level of family income, plus a dependent care allowance, if applicable.

(16) "Academic year" is that period of time between July 1 and the following June 30 during which a full-time student would normally be expected to complete the equivalent of two semesters or three quarters of instruction.

(17) "Clock hours" means a period of time which is the equivalent of either:

(a) A 50 to 60 minute class, lecture, or recitation, or

(b) A 50 to 60 minute period of faculty-supervised laboratory shop training or internship.

(18) "Gift equity packaging policy" is the institution's policy for assigning gift aid to all needy, eligible students.

(19) "Satisfactory progress" is the student's successful completion of a minimum number of credits for each term in which the grant was received. Each school's policy for measuring progress of state need grant recipients must define satisfactory as the student's completion of the minimum number of credits for which the aid was disbursed.

(a) The minimum satisfactory progress standard for full-time students is twelve credits per term or 300 clock hours per term. Satisfactory progress for three-quarter time students is nine credits per term or 225 clock hours per term. Satisfactory progress for half-time students is six credits per term or 150 clock hours per term.

(b) Each school's policy must deny further disbursements of the need grant at the conclusion of any term in which he or she fails to complete at least one-half (50%) of the minimum number of credits for which the aid was disbursed or otherwise fails to fulfill the conditions of the institution's satisfactory progress policy.

(c) The school may make disbursements to a student who is in a probationary status. "Probation" is defined as completion of at least one-half (50%), but less than all (100%) of the minimum number of credits for which the aid was calculated and disbursed. The school must have a

probation policy, approved by the board, which limits the number of terms in which a student may receive the need grant while in a probationary status.

(d) The school's aid administrator may at any time, using professional judgment exercised on a case-by-case basis, reinstate a student back into a satisfactory progress status, in response to an individual student's extenuating circumstances.

January 9, 1995
Bruce Miyahara
Secretary

WSR 95-03-018
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed January 10, 1995, 9:03 a.m.]

Original Notice.

Title of Rule: WAC 246-815-050 (1)(b)(iv), requires the polishing of amalgam be tested on the dental hygiene examination.

Purpose: To eliminate the requirement for testing of the polishing of amalgam restorations on the dental hygiene examination.

Statutory Authority for Adoption: RCW 18.29.120(2).
Statute Being Implemented: Chapter 18.29 RCW.

Summary: The amendment shall eliminate the requirement for testing of the polishing of amalgam restorations.

Reasons Supporting Proposal: The Dental Hygiene Examining Committee determined that the testing of the polishing of amalgam restorations is not essential to assure minimum competency for dental hygiene examination candidates.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Carol Lewis, Olympia, Washington, (206) 586-1867.

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: It provides more lenient requirements for taking exam.

Proposal Changes the Following Existing Rules: Eliminates requirement for testing on the polishing of amalgam restorations.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. A small business economic impact analysis determined that this rule amendment will not economically impact the small business of hygienists or dentists.

Hearing Location: First Floor Conference Room, Blue Awning, Department of Health, 1102 S.E. Quince, Olympia, WA 98504, on February 23, 1995, at 10 a.m.

Assistance for Persons with Disabilities: Contact Carol Lewis at (206) 586-1867 by phone or P.O. Box 47867, Olympia, WA 98504-7867 by mail by February 1, 1995, TDD (800) 525-0127, or (206) 664-0064.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504-7890, by February 20, 1995.

Date of Intended Adoption: February 23, 1995.

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-815-050 Examination. (1) The dental hygiene examination will consist of both written and practical tests.

(a) Written tests—The written tests will include:

(i) Successful completion of the dental hygiene national board examination.

(ii) Washington state written test. All applicants must successfully complete a written test covering anesthesia, restorative dentistry, and other subjects related to dental hygiene practice.

(b) Practical tests—The practical tests will include:

(i) Patient evaluation test which will include a health history, extraoral and intraoral examination, periodontal charting and radiographs.

(ii) Prophylaxis test which will include a clinical demonstration of a prophylaxis to consist of the removal of deposits from and the polishing of the surfaces of the teeth.

(iii) Anesthesia test which will include applicants demonstrating the administration of a local anesthetic.

(iv) Restorative test which will include demonstrating the insertion, condensation(~~(s)~~) and carving (~~(and polishing)~~) of amalgam restorations.

(2) Each applicant must furnish a patient for the patient evaluation test, prophylaxis test and anesthesia test. Patients must be at least eighteen years of age with a minimum of twenty-four teeth. A patient shall not be a dentist, dental student, or dental hygiene student. The state dental hygiene examining committee and the school of dentistry assume no responsibility regarding the work done on patients. Candidates will be required to furnish documentary evidence of malpractice and liability insurance for the examination.

(3) The committee may, at its discretion, give a test in any other phase of dental hygiene. Candidates will receive information concerning each examination.

(4) The applicant will comply with all written instructions provided by the department of health.

WSR 95-03-044
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 11, 1995, 10:50 a.m.]

Original Notice.

Title of Rule: WAC 388-49-410 Resources—Exempt and 388-49-430 Resources—Vehicles.

Purpose: Excludes the value of a fishing boat when the boat is essential to the self-employment of a household member. Exclusion continues for one year from termination of self-employment. Clarifies resources of a nonhousehold member, including a student, are exempt.

Statutory Authority for Adoption: RCW 74.04.050.
Statute Being Implemented: RCW 74.04.050.

Summary: The department can equate self-employment fishing to self-employment farming. Issuance excludes value of a fishing boat for food stamp program when it is essential to the self-employment of a household member. Exclusion continues for one year after the termination of self-employment. Issuances also clarifies resources of a nonhousehold member, including ineligible student, is exempt.

Reasons Supporting Proposal: The food and nutrition service (FNS) clarified treatment of self-employment resources at CFR 273.8 (e)(5) and (h)(1)(i) for food stamp program. Revision is also needed to conform to definition of nonhousehold member in 7 CFR 273.1(b).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Division of Income Assistance, 438-8322.

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

Rule is necessary because of federal law, 7 CFR 273.1(b), 273.8 (e)(5) and (h)(1)(i).

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 amendment impacts the food stamp program and is not business related. It will allow a small number of self-employed individuals to retain their business equipment while continuing to receive food stamps.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on February 21, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Deaf and Hard of Hearing Services by February 8, 1995, TDD (206) 753-0699, or SCAN 234-0699.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by February 15, 1995.

Date of Intended Adoption: February 22, 1995.

January 11, 1995

Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3756, filed 7/27/94, effective 9/1/94)

WAC 388-49-410 Resources—Exempt. (1) The department shall exempt the following resources:

(a) An occupied home and surrounding property not separated by intervening property owned by others;

(b) An unoccupied home and surrounding property if the household:

(i) Is making a good faith effort to sell; or

(ii) Intends to return to the home and the house is unoccupied due to:

(A) Employment;

(B) Training for future employment;

(C) Illness; or

(D) Uninhabitability due to casualty or natural disaster.

(c) A piece of land where the household is building or intends to build a permanent home, if the household does not own another home. The land must not be separated by intervening property owned by others;

(d) Personal effects;

(e) Household goods;

(f) One burial plot per household member;

(g) Cash value of:

(i) Life insurance policies; and

(ii) Pension funds.

(h) Vehicles as provided under WAC 388-49-430;

(i) That portion of real or personal property directly related to the maintenance or use of a vehicle excluded under WAC 388-49-430 (1)(a), (b), and (g);

(j) Property annually producing income consistent with its fair market value, even if only used on a seasonal basis;

(k) Rental homes used by household for vacation purposes during the year if the property annually produces income consistent with its fair market value;

(l) Property essential to the employment or self-employment of a household member. Property excluded under this provision because the property is used by a self-employed farmer or fisherman shall retain its exclusion for one year from the date the household member terminates self-employment from farming or fishing;

(m) Resources held separately by a nonhousehold member (~~or an ineligible student~~);

(n) Indian lands:

(i) Held jointly with the tribe; or

(ii) Sold only with the approval of the Bureau of Indian Affairs.

(o) Resources prorated as income for self-employed persons or eligible students. These funds, if commingled in an account with nonexcluded funds, shall retain their exclusion for the period of time they are prorated as income;

(p) Cash value of resources not accessible to the household;

(q) Funds in a trust and the income produced by that trust, to the extent they are not available;

(r) Resources excluded by express provision of federal law from consideration in the food stamp program;

(s) Installment contracts or agreements for the sale of land or other property when it is producing income consistent with its fair market value;

(t) Value of the property sold under an installment contract;

(u) The value of property held for security if the purchase price is consistent with fair market value;

(v) Real or personal property when:

(i) Secured by a lien as a result of obtaining a business loan; and

(ii) The security or lien agreement prohibits the household from selling the asset or assets.

(w) Governmental payments designated for restoration of a home damaged in a disaster. The household must be subject to legal sanction if the funds are not used as intended;

(x) Energy assistance payments or allowances made under federal, state, or local laws;

(y) Resources of persons residing in shelters for battered women and children if:

(i) The resources are jointly owned with members of the former household; and

(ii) Access to the resources depends on the agreement of the joint owner.

(z) Payments received under the Puyallup Tribe of Indians Settlement Act of 1989, P.L. 101-41, as follows:

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

(ii) The investments or purchases made directly with the annuity payment up to the amount from the annuity fund payment; and

(iii) Payments from the trust fund established by P.L. 101-41 made to a Puyallup Tribal member.

(2) The department shall continue to exempt a household's funds commingled in an account with non-exempt funds for up to six months from the date the funds are commingled.

(3) The department shall exempt a resource of a household member who receives a supplemental security income (SSI) or aid to families with dependent children (AFDC) grant.

AMENDATORY SECTION (Amending Order 3756, filed 7/27/94, effective 9/1/94)

WAC 388-49-430 Resources—Vehicles. (1) The department shall exclude the entire value of a licensed vehicle even during periods of temporary unemployment if the vehicle is:

(a) Used for income-producing purposes over fifty percent of the time the vehicle is in use. A vehicle excluded under this provision because the vehicle is used by a self-employed farmer or fisherman retains its exclusion for one year from the date the household member terminates self-employment from farming or fishing;

(b) Annually producing income consistent with its fair market value;

(c) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member, ineligible alien, or disqualified person whose resources are considered available to the household;

(d) Necessary for subsistence hunting or fishing;

(e) Used as the household's home;

(f) Used to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household; or

(g) Necessary to transport a temporarily or permanently physically disabled:

(i) Household member;

(ii) Ineligible alien whose resources are available to the household; or

(iii) Disqualified person whose resources are available to the household.

The exclusion is limited to one vehicle per physically disabled person.

(2) The department shall count the equity value of an unlicensed vehicle even during periods of temporary unemployment unless the vehicle is:

(a) Annually producing income consistent with its fair market value (FMV) even if only used on a seasonal basis; or

(b) Work-related equipment necessary for employment or self-employment of a household member.

(3) The department shall consider unlicensed vehicles the same as licensed vehicles if the vehicles are driven by Indian tribal members on those reservations not requiring vehicle licensing.

(4) The department shall count toward the household's resource maximum either the FMV in excess of four thousand five hundred fifty dollars or the equity value of licensed vehicles, whichever is greater. Except, the department shall only count the FMV in excess of four thousand five hundred fifty dollars for the following vehicles:

(a) One licensed vehicle per household regardless of the vehicle's use; and

(b) Any other licensed vehicle used for:

(i) Transportation to and from employment;

(ii) Seeking employment; or

(iii) Transportation for training or education.

(5) The department shall determine the FMV using vehicles listed in publications written for the purpose of providing guidance to automobile dealers and loan companies.

WSR 95-03-045
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Filed January 11, 1995, 10:53 a.m.]

Original Notice.

Title of Rule: WAC 388-49-420 Resources—Non-exempt.

Purpose: Redefines "ineligible student" as a nonhousehold member for the food stamp program to be consistent with 7 CFR 273.1(b). Clarifies resources of ineligible food stamp household members are considered available to remaining household members, and resources of nonhousehold members including ineligible students are exempt.

Statutory Authority for Adoption: RCW 74.04.050.

Statute Being Implemented: RCW 74.04.050.

Summary: Rule amendment redefines "ineligible student" as a nonhousehold member for the food stamp program to be consistent with 7 CFR 273.1(b).

Reasons Supporting Proposal: Redefines "ineligible student" as a nonhousehold member for the food stamp program to be consistent with 7 CFR 273.1(b).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Mike Arnaud, Division of Income Assistance, 438-8322.

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

Rule is necessary because of federal law, RCW 74.04.050, 7 CFR 273.1(b).

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 revision impacts the food stamp program and is not business related.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on February 21, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Deaf and Hard of Hearing Services by January [February] 8, 1995, TDD (206) 753-0699, or SCAN 234-0699.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (206) 586-8487, by February 15, 1995.

Date of Intended Adoption: February 22, 1995.

January 11, 1995
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3277, filed 10/31/91, effective 12/1/91)

WAC 388-49-420 Resources—Nonexempt. (1) The department shall consider the following resources nonexempt:

- (a) Liquid resources;
- (b) Real and personal property not exempted by WAC 388-49-410; and
- (c) Money secured in the form of a lump sum.

(2) The value of a nonexempt resource, except for licensed vehicles as specified in WAC 388-49-430, shall be its equity value.

(3) The department shall exempt funds having been commingled in an account with nonexempt funds for more than six months.

(4) The department shall consider resources owned jointly by separate households available in their entirety to each household, unless:

- (a) The resource is inaccessible to one of the households, and
 - (b) Ownership is verified, if questionable.
- (5) The department shall consider resources of ~~((the following persons as available to the remaining household members:~~

- ~~(a) Ineligible aliens;~~
- ~~(b) Persons disqualified for failure to meet Social Security number requirements;~~
- ~~(c) Persons disqualified for intentional program violation;~~
- ~~(d) Persons disqualified for failure to comply with work requirements as described under WAC 388-49-360; or~~
- ~~(e) Persons who fail to sign the application attesting to their citizenship or alien status))~~ **ineligible household members as available to the remaining household members.**

(6) Excluding one thousand five hundred dollars, the department shall consider resources of an alien sponsor and spouse living together available:

- (a) To the household as specified in WAC 388-49-270, for three years following the alien's admission to the United States for permanent residence;
- (b) To the extent deemed resources are divided by the number of sponsored aliens applying for or participating in

the program, if the alien can demonstrate the sponsor is sponsoring other aliens; and

(c) Until one of the following occurs:

- (i) Alien obtains a new sponsor, should the alien lose a sponsor during the three-year limit;
- (ii) The three-year period for applying the sponsored alien provisions expires; or
- (iii) The sponsor dies.

WSR 95-03-050
PROPOSED RULES
DEPARTMENT OF REVENUE

[Filed January 11, 1995, 1:11 p.m.]

Original Notice.

Title of Rule: Amending WAC 458-20-258 Travel agents and tour operators.

Purpose: To implement 1993 legislation which made guided charters and guided tours a retail sale.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: RCW 82.04.050.

Summary: 1993 legislation made guided tours and guided charters a retail sale. This rule provides definition of "guided tour" and "guided charters." It explains when amounts paid to third party service providers are excludable from taxable income.

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

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule provides tax reporting information to travel agents, tour operators, and guided tour operators. The rule provides definitions and examples. The rule provides guidelines for apportionment when a guided tour takes place in more than one state. It also provides guidelines for when payments to third-party service providers can be excluded.

Proposal Changes the Following Existing Rules: This is a revision to WAC 458-20-258 and will include tax reporting information for guided tour operators. There are no significant changes to travel agents and nonguided tours. Due to restructuring of the rule and a significant amount of new language, the original text of the rule has been deleted in its entirety and new language inserted.

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: Legislation and Policy Division, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, phone (206) 586-4281, or FAX (206) 664-0693.

Hearing Location: Revenue Conference Room #415, General Administration Building, 210 11th and Columbia, Olympia, WA, on February 22, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Gwendolyn Kopetsky by February 14, 1995, TDD (800) 451-7985, or (206) 753-3217.

Submit Written Comments to: Les Jaster, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (206) 664-0693, by February 22, 1995.

Date of Intended Adoption: March 1, 1995.

January 11, 1995
Russell W. Brubaker
Assistant Director

AMENDATORY SECTION (Amending WSR 90-17-003, filed 8/2/90)

WAC 458-20-258 Travel agents (and), tour operators, guided tours and guided charters. ~~((1) INTRODUCTION. This section describes the business and occupation (B&O) taxation of travel agents and tour operators. Travel agents are taxed at the special travel agent rate under RCW 82.04.260(10). Tour operators are generally taxed under the service or other business classification under RCW 82.04.290. However, the business activities of tour operators may sometimes include activities like those of a travel agent. This section recognizes the overlap of activities and taxes them consistently.~~

(2) DEFINITIONS:

~~(a) "Commission" means the fee or percentage of the charge or their equivalent, received in the ordinary course of business as compensation for arranging the service. The customer or receiver of the service, not the person receiving the commission, is always responsible for payment of the charge.~~

~~(b) "Pass-through expense" means a charge to a tour operator business where the tour operator is acting as an agent of the customer and the customer, not the tour operator, is liable for the charge. The tour operator cannot be primarily or secondarily liable for the charge other than as agent for the customer. See: WAC 458-20-111 Advances and reimbursements.~~

~~(c) "Tour operator business" means a business activity of providing directly or through third party providers, transportation, lodging, meals, and other associated services where the tour operator purchases or itself provides any or all of the services offered, and is itself liable for the services purchased.~~

~~(d) "Travel agent business" means the business activity of arranging transportation, lodging, meals, or other similar services which are purchased by the customer and where the travel agent or agency merely receives a commission for arranging the service.~~

(3) TRAVEL AGENTS:

~~(a) The gross income of a travel agent or a travel agent business is the gross commissions received without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense. It is taxed at the special travel agent rate.~~

~~(b) Gross receipts, other than commissions, from other business activities of a travel agent, including activities as a tour operator, are taxed in the appropriate B&O classification, service, retailing, etc., as the case may be.~~

(4) TOUR OPERATORS:

~~(a) The gross income of a tour operator or a tour operator business is the gross commissions received when the activity is that of a travel agent business.~~

~~(i) When a tour operator receives commissions from a third party service provider for all or a part of the tour or tour package, the gross income of the business for that travel agent activity is the commissions received.~~

~~(b) However, if the activity is that of a tour operator business, receipts are B&O taxable in the service classification without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense; EXCEPT, receipts attributable to pass-through expenses are not included as part of the gross income of the business.~~

(5) EXAMPLES:

~~(a) A travel agent issues an airplane ticket to a customer. The cost of the ticket is \$250 which is paid by the customer. The travel agent receives \$25 from the airline for providing the service.~~

~~(i) The gross income of the business for the travel agent is the \$25 commission received.~~

~~(ii) The gross income of the business is taxed at the special travel agent rate.~~

~~(b) A tour operator offers a tour costing \$1,500 per person. The tour cost consists of \$800 airfare, \$500 lodging and meals, and \$200 bus transportation. The tour operator has an arrangement with each of the service providers to receive a 10% commission for each service of the tour, which in this case is \$150 (\$80 + \$50 + \$20). The tour operator issues tickets, etc, only when paid by the customer and is not liable for any services reserved but not provided.~~

~~(i) The tour operator is engaged in a travel agent activity and the gross income of the business is commissions received, \$150.~~

~~(ii) The gross income of the business, \$150, is taxed at the special travel agent rate.~~

~~(c) The same facts as in example (b) except that the tour operator has a policy of requiring 10% or \$150 as a down payment with the remaining \$1,350 payable 20 days prior to departure with 95% refundable up to 10 days prior to departure and nothing refunded after 10 days prior to departure. The customer cancels 15 days prior to departure and is refunded \$1,425 with the tour operator retaining \$75.~~

~~(i) The gross income of the tour operator business is the \$75 retained. No amount is attributable to pass through expense since the tour operator was not obligated to the service provider in the event of cancellation and the tour operator was not acting as the agent of the customer.~~

~~(ii) The gross income of the business, \$75, is taxed in the service B&O tax classification.~~

~~(d) A tour operator offers a package tour for the Superbowl costing \$800 per person. The tour operator purchases noncancellable rooms in a hotel for \$300 per room for 2 nights, and game tickets which cost \$100 each. The package includes airfare which costs \$200 per person for which the tour operator receives the normal commission of \$20. As an extra feature, the tour operator offers to provide, for an extra cost, special event tickets, if available, at his cost of \$50 each. The tour operator is B&O taxable as follows:~~

~~(i) The gross income of the tour operator business is \$600 (\$800 less \$200 airfare). Because the tour operator purchased the rooms and the game tickets in its own name and is liable for the rooms or tickets if not resold, the tour operator is not operating as a travel agent business and is~~

~~B&O taxable in the service classification. If the tour operator receives a commission on the rooms sold to itself, the activity remains taxable as a tour operator business under the service classification and the commission received is treated as a cost discount, not included in the gross income of the business.~~

~~(ii) The \$50 received for the special event ticket is attributable to a pass-through expense and is not included in the gross income of the tour operator business. The special event ticket receipt is attributable to a pass-through expense because the tour operator is acting as an agent for the customer.~~

~~(iii) The \$20 received as commission from the sale of the airfare is a travel agent business activity and is included as gross income of a travel agent and taxed at the special travel agent rate.)~~

(1) Introduction. This section describes the business and occupation (B&O) taxation of travel agents and tour operators. The definition of "retail sale" in RCW 82.04.050 was amended in 1993 to include charges for guided tours and guided charters. This change became effective July 1, 1993. This section also discusses the B&O and retail sales tax liability for guided tours and guided charters. Persons providing charter services without a guide are generally considered to be in the business of providing transportation services and subject to the public utility tax (see WAC 458-20-179).

(2) Definitions:

(a) "Commission" means the fee or percentage of the charge or its equivalent, received in the ordinary course of business as compensation for arranging the service. The customer or receiver of the service, not the person receiving the commission, is always responsible for payment to the service provider.

(b) "Pass-through expense" means a charge to a tour operator business where the tour operator is acting as an agent of the customer and the customer, not the tour operator, is liable for the charge. The tour operator cannot be primarily or secondarily liable for the charge other than as agent for the customer. See: WAC 458-20-111 Advances and reimbursements.

(i) Because of the difficulty in documenting whether purchases by tour operators from third party providers are made as an agent of the customer, it will be presumed that the purchase was made as an agent of the customer if the charge from the service provider is made on a "per person" basis. For example, if the tour operator charters a bus for five hundred dollars, this will not be considered as a pass-through or an advance and reimbursement. On the other hand, if the tour operator purchases bus transportation for ten persons at fifty dollars per person, this will be presumed to be a purchase as an agent.

(ii) In determining whether the charge is a pass-through, the department will also consider whether the purchase from the third party can be cancelled without penalty to the tour operator.

(iii) It will also be presumed that the purchase is not a pass-through if the payment to the third party provider is different than the amount charged the customer, unless it can clearly be shown that the difference is the commission which by terms of the agreement the travel agent is permitted to deduct from the amounts owed the third party provider.

(c) "Tour operator business" means a business activity of providing directly or through third party providers, transportation, lodging, meals, guided tours, and other associated services where the tour operator purchases or itself provides any or all of the services offered, and is itself liable for the services purchased.

(d) "Travel agent business" means the business activity of arranging transportation, lodging, meals, or other similar services which are purchased by the customer through a travel agent and the travel agent or agency merely receives a commission for arranging the service.

(e) "Guide" means a person who conducts tours of specific locations or attractions by providing a narrative of the area and/or by directing the participants through the area toured. A guide does not include a person who only provides services such as accounting for everyone on the tour, providing maps or brochures of the area or areas toured, and/or helping with luggage or any similar problems that may arise during the tour. A guide also does not include an instructor whose primary purpose is to lecture on the flora or fauna as part of a recognized educational program which may include field trips for study purposes.

(f) "Guided tour" is a sightseeing, adventure, recreational or similar experience in which a guide is present for at least twenty five percent of the time measured from the beginning to the end of the tour, but for purposes of computing the twenty five percent, those hours spent in overnight lodging facilities which are not specifically part of a planned tour activity are excluded. Guided tours include, but are not limited to, walking tours of historic areas, hikes, mountain climbs, bicycle, kayak, rafting and canoe trips which are accompanied by a guide. Guided tours also include bus tours, boat tours and aerial tours of scenic areas during which the driver, pilot, or another person gives a narrative of the area toured.

(g) "Guided charter" means the hiring of the exclusive use of a bus, plane, boat or other transportation vehicle with an operator of the transportation equipment with a guide present for at least twenty-five percent of the time. Some services which are referred to as "charters", such as fishing charters, were retail transactions prior to July 1, 1993 since they involve the sale of recreational or amusement services.

(h) Examples: The following examples show how the above definitions are applied to various situations. They identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances.

(i) A taxpayer operating a travel agent business issues an airplane ticket to a customer. The cost of the ticket is \$450 which is paid by the customer. The travel agent receives \$60 from the airline for providing the service. The taxpayer is taxable as a travel agent and the \$60 is the commission received which is taxed at the special travel agent rate.

(ii) A taxpayer offers a tour without a guide for a total charge of \$1,500 per person with the charges itemized as \$800 airfare, \$500 lodging and meals, and \$200 bus transportation. The taxpayer provides none of these services directly to its customers, but purchases all services from third party providers. The taxpayer has an arrangement with the airline and bus operator to receive a 10% commission for

the sale of tickets associated with tours. The taxpayer charges the tour customer for the exact cost of the airfare and bus transportation, but pays the lodging and meals provider only \$400, marking this service up by \$100 to the customer. Under the operating terms, the taxpayer is not liable for any services reserved but not provided and each service provider bills the taxpayer on a "per person" basis. The taxpayer is engaged in a combination of travel agent and tour operator activities. The gross commission received from the airline and bus operator is taxable under the travel agent classification. The amount paid to the airline and bus operator is excludable from the gross income. The \$500 received for the meals and lodging is from engaging in a tour business. Even though the meals and lodging are billed on a per person basis, this is not a pass through because the tour operator has marked up these purchases.

(iii) A tour operator offers a package tour for the Superbowl costing \$800 per person. The charge to the customer is itemized to the customer only to the extent the airfare is shown at actual cost. The tour operator purchases noncancellable rooms in a hotel for \$300 per room for 2 nights, and game tickets which cost \$100 each. The package includes airfare which costs \$200 per person for which the tour operator receives the normal commission of \$20. As an extra feature, the tour operator offers to provide, for an extra cost, special event tickets, if available, at his cost of \$50 each. The tour operator is B&O taxable as follows:

(A) The gross income of the tour operator business is \$600 (\$800 less \$200 airfare). Because the tour operator purchased the rooms and the game tickets in its own name and is liable for the rooms or tickets if not resold, the tour operator is not operating as a travel agent business and is B&O taxable under the service classification. If the tour operator receives a commission on the rooms sold to itself, the activity remains taxable as a tour operator business under the service classification and the commission received is treated as a cost discount, not included in the gross income of the business.

(B) The \$50 received for the special event ticket is attributable to a pass-through expense and is not included in the gross income of the tour operator business. The special event ticket receipt is attributable to a pass-through expense because the tour operator is acting as an agent for the customer.

(C) The \$20 received as commission from the sale of the airfare is a travel agent business activity and is included as gross income of a travel agent and taxed at the special travel agent rate.

(iv) A tour operator provides bus tours for senior citizens to several different localities for shopping excursions. A person hired by the tour operator accompanies the group to direct the group as to where to meet and to help with any problems that may arise during the excursion. The company is not providing a "guided tour." The company must report its income under the service classification as a tour operator.

(v) A tour operator provides a four hour boat trip to see whales and other marine life off the coast of Washington. A person accompanies the tour to give a short lecture on the area and to help the passengers spot the whales. The charter is a "guided charter" because a guide is present for the

duration of the charter. The total charge for the tour is subject to Washington's retail sales tax.

(vi) ABC Forestry, Inc. is a nonprofit corporation whose primary business is to promote careers in forestry management. As part of an educational program, ABC will give classroom instruction in logging practices, environmental concerns, estimating timber type and quantity, etc. In addition to classroom instruction, there will be several field trips. As part of these field trips, ABC will give lectures at logging sites about the types of flora and fauna in the area.

This is not a guided tour even if the field trips involve more than twenty-five percent of the total time. The field trips are a continuation and enhance the educational curriculum. In determining whether field trips of this type are guided tours, the following factors will be considered: whether the instruction is a substantial part and the primary purpose of the trip; whether the sightseeing is incidental to the primary purpose of the trip; whether the trip in essence continues or enhances an existing curriculum; whether credit or certification is given; whether established places of interest are visited; and the manner in which the trip is advertised and sold to the public.

(vii) A tour operator provides bus transportation to and from the opera, theater, and various sporting events. Sometimes a person hired by the tour operator accompanies the group and gives a lecture on the event that will be seen. Such tours are not "guided tours" as the person who accompanies the tour is not a "guide" as defined in (2)(e) above. The tour operator is taxable under the service B&O tax classification.

(3) Travel agents.

(a) Travel agents are taxed at the special travel agent rate under RCW 82.04.260(10). The gross income of a travel agent or a travel agent business is the gross commissions received without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense. For example, the travel agent may not deduct telephone costs, computer connection charges, postage, or any other costs associated with operating the business.

(b) Gross receipts, other than commissions, from other business activities of a travel agent, including activities as a tour operator, are taxed in the appropriate B&O classification, service, retailing, etc., as the case may be.

(4) Tour operators.

(a) Tour operators, for tours when a guide is not present, are generally taxed under the service or other business classification under RCW 82.04.290. Tour operators who directly provide guided tours in this state are taxed under the retailing business classification and must collect and remit retail sales tax on the charge for the guided tour. Guided tours are discussed in section five below. Receipts are B&O taxable in the service classification without any deduction for the cost of materials used, labor costs, interest, discount, delivery cost, taxes, losses, or any other expense; except, receipts attributable to pass-through expenses are not included as part of the gross income of the business.

(i) If the tour operator pays third party service providers for pass-through expenses such as lodging, meals, guided tours or other services which are retail sales, the tour operator must pay the applicable retail sales tax at source.

(b) Gross receipts from other business activities are taxed in the appropriate B&O classification. If a tour operator receives commissions from a third party service provider such as a hotel or restaurant, the commissions are taxed at the special travel agent rate if these items were purchased as an agent for a customer.

(5) Guided tours and guided charters. Charges for guided tours and guided charters which take place in Washington State are retail sales and subject to Washington's retail sales tax and retailing B&O tax.

(a) If the guided tour or guided charter takes place entirely in this state, the total price of the guided tour or charter is subject to Washington's retail sales tax. For purposes of this rule, "in this state" includes waters contiguous to this state which are not in any other state.

(b) If a guided tour or guided charter takes place both inside and outside of Washington, that percentage of the tour that takes place in this state is subject to Washington's retail sales tax if the percentage is more than twenty-five percent. Percentage of tour relates to the time spent on the tour. For example, if one day of a three day guided tour is spent in this state and two days are spent outside this state, one third of the tour is a retail sale in this state. The tour operator must collect and remit Washington's retail sales tax on one-third of the charge for the tour.

(c) The sale takes place at the time the customer purchases the tour or charter and has the obligation to make payment. A "customer" can include the person who will take the tour as well as travel agents or other tour operators who may purchase guided tours to include in a tour package.

(d) If the tour is advertised as a tour to one location, the place of sale is the place of destination. If the tour is to several areas, the place of sale is the first place in this state which is included in the tour.

(e) If a tour package includes a guide being present for longer than twenty five percent of the time, this is a retail sale. The tour operator must pay retail sales tax for the purchases of any meals, lodging, and/or other retail services. If the guided tour is provided by a third party, the tour operator who packages the tour must also pay retail sales tax on the charges for the guided tour. However, the tour operator may exclude the amounts paid to third party providers for meals and lodging. It will also be conclusively presumed that the payment to the third party tour guide was made as an agent and may be excluded from the measure of the tax. The tour operator may advertise the tour as including retail sales tax and back the appropriate amount of retail sales tax out of the charge for the guided tour.

(f) If more than seventy-five percent of the time spent on a guided tour is outside this state, no retailing or retail sales tax is due on the charge for the tour.

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

(a) A tour operator sells a package tour to Mount Rainier National Park. The tour includes transportation by bus to Paradise Lodge on Mount Rainier from Seattle, lunch billed on a per person basis at a restaurant on the way to the mountain, an optional hike, and return to Seattle. A guide accompanies the tour and provides a narrative of the areas

toured. The tour is a "guided tour" because more than 25% of the time is spent with a guide. The charge for the tour, therefore, is subject to Washington's retail sales tax and Retailing B&O tax. The tour operator may advertise the tour as including applicable retail sales tax and back out the appropriate amount of tax.

(i) The tour operator must pay retail sales tax at source for the lunches and may deduct the total charge for the lunches from the cost of the total tour. If the tour operator receives a commission from the restaurant, that amount is subject to tax at the travel agent rate as provided in (4)(b) above. The remaining amount is considered the charge for the guided bus tour and is subject to retailing B&O tax and retail sales tax.

(ii) The place of sale is the tour destination, Mount Rainier National Park.

(b) A tour operator provides a package tour from Seattle to San Juan Island, Washington. The tour includes a bus trip to the ferry dock, a ferry ride to San Juan Island, a guided bus tour of the island provided by a third-party tour operator, dinner, and a return ferry and bus trip. An employee of the business accompanies the tour to help direct and account for passengers. The total time for the tour is twelve hours; the guided bus tour is for two hours. The tour operator is not selling a guided tour because its own employee who accompanies the tour is not performing as a guide and the portion of the tour with a guide present is less than twenty-five percent of the total tour.

(i) The tour operator must pay retail sales tax at source on the charges for the guided bus tour of the island and for the dinner. These costs as well as the cost for the ferry tickets are pass-through costs which are not included as part of the tour operator's gross income.

(ii) The tour operator will owe B&O tax on any commission income received from the restaurant or third party tour operator at the special travel agent rate. The remaining income is taxable as a tour operator business at the service rate.

(c) A Canadian company provides guided tours from this state to British Columbia ("C" tours) and guided tours from British Columbia to this state ("W" tours). Most of the tickets are sold through the company's office in Vancouver, B.C. Passengers on the "C" tours spend more than 75% of their time in Canada. The "C" tours, therefore, are not subject to Washington's retail sales tax. Passengers on the "W" tours spend 75% of the time for the tour in this state. The tour operator must collect and remit Washington's retail sales tax on 75% of the charge for the tour. The place of sale would be the first place in this state which is included in the tour.

(d) A tour operator provides an eight-hour bus tour of several different areas in Washington State. At one of the locations, the tour operator hires a local independent sight-seeing guide, sometimes referred to as a "step-on" guide, to give a one-hour tour of the local area. Because a guide is not present for at least 25% of the tour, the tour is not a "guided tour." The tour operator may deduct the payment to the tour operator and is subject to the service B&O on the balance of the charge for the tour. The "step-on" guide is providing guided tour services and owes retailing B&O tax and is required to collect and remit retail sales tax on

amounts received for providing the guide service to the tour operator.

(e) A tour operator provides an eight-hour bus tour of Whidbey Island. The tour operator purchases the services of a "step-on" guide who is present for four hours of the tour. This tour is a "guided tour" because more than 25% of the time is spent with a guide. The tour operator must collect retail sales tax on the total charge for the tour. The "step-on" guide is also making a sale of guided tour services and owes retailing B&O tax and must collect retail sales tax on amounts received for providing the guide service to the tour operator. The tour operator may deduct the amounts paid to the "step-on" guide in computing the receipts subject to retailing and retail sales tax.

WSR 95-03-054
PROPOSED RULES
PERSONNEL APPEALS BOARD

[Filed January 12, 1995, 1:42 p.m.]

Original Notice.

Title of Rule: Chapters 358-01, 358-20, and 358-30 WAC.

Purpose: Efficient, fair, effective and timely resolution of personnel appeals.

Statutory Authority for Adoption: RCW 41.64.060, 34.05.220(a).

Statute Being Implemented: RCW 41.64.050, 41.64.060, 41.64.080, 41.64.090, 41.64.100, and 41.64.130.

Summary: On May 1, 1994, the Personnel Appeals Board became a full-time board. This change in status was necessitated by a large backlog of appeals, caused in part by the addition of higher education appeals to the board's general government appeal workload. New procedures to address the board's full-time status and to process appeals are needed to accommodate the increased workload and the appeal backlog.

COMMENTS ON RULES PROPOSED
BY PERSONNEL APPEALS BOARD

Comment to WAC 358-01-042: Subsection (1) is a housekeeping rule intended to ease compliance with the Open Public Meetings Act, RCW 42.30.070 et seq.

Subsection (2) establishes a regular time for public testimony to the board regarding operational procedures (as opposed to particular cases). It is intended to invite feedback while avoiding ex parte contact following the transition to a full-time board.

Comment to WAC 358-01-044: This establishes a regular time of 1:30 on Mondays for the board to hear motions in Olympia. In addition, based on testimony on an earlier draft of this rule, the board may periodically announce a supplemental calendar of times to hear motions in other locations. This rule also requires motions to be submitted in writing and scheduled on the board's motions calendar.

The rule is also intended to formalize the process and timelines for the board to consider motions. It confirms current practice that nondispositive motions may be considered by written argument unless oral argument is authorized by the board. However, oral argument shall be allowed on

dispositive motions, such as motions to dismiss or for summary judgment, at the request of either party.

See also new proposed WAC 358-30-042 Motions, generally and existing WAC 358-30-015 Motion for more definite statement, 358-30-040 Motions for and order of continuance, and 358-30-060 Dispositive and summary motions.

Comment to WAC 358-20-010: This is intended to encompass the Personnel Appeals Board jurisdiction over both the merit system and higher education and to anticipate whatever the outcome is in the evolution of Titles 251 and 356 WAC. It also clarifies the reference to reduction in pay, which is a disciplinary action, as opposed to reduction in force (layoff), which may constitute a rules violation.

Comment to WAC 358-20-020: This is merely intended to reflect the 1993 statutory changes which brought higher education appeals under the Personnel Appeals Board and to anticipate any new rules resulting from the merger of Titles 356 and 251 WAC. It also clarifies that appeals of a layoff or reduction in force are a subcategory of rules violations.

Comment to WAC 358-20-030: This recognizes that higher education allocation appeals are under the jurisdiction of the Personnel Appeals Board.

Current practices are different for allocation appeals in higher education and in the merit system. In conjunction with proposed WAC 358-30-022, this rule will establish a consistent method of hearing appeals on an exception basis for both higher education and merit system employment. The current practice in higher education has been to consider allocation appeals on an exception basis. See WAC 251-06-070(2) and 251-12-075 (2)(a). The current practice in the merit system has been to take additional evidence at the next level after the director of personnel's determination. Under current practice, if this hearing has been conducted by a hearings examiner, an appeal to the board itself would be by exception.

Comment to WAC 358-20-032: This reflects the appeal rights established in the 1993 amendment to RCW 41.06.170(3). An earlier draft circulated in December has been modified to parallel the statute more closely by adding reference to the date.

Comment to WAC 358-20-040: Subsection (1) is amended to reflect the appropriate reference to allocation determinations in higher education and anticipates any successor rules. It also adds subparagraph (d) to reflect the time limit for appeals of actions exempting positions after July 1, 1993, in conformance with RCW 41.06.170(3).

Subsection (2) adds additional requirements in filing all appeals to identify the position the appellant holds, reasons for the appeal, remedy sought, and any reasons if the appellant believes mediation would not be appropriate. It also requests (but does not require) information on companion cases, an estimate of time required for a hearing, and an indication of whether there have been prior "settlement" efforts. The standard appeal form would be revised to reflect these changes; see new subsection (6).

The board has found that it needs more information at intake of an appeal to review cases in order to identify and set them for mediation, prehearing conference, or directly for hearing. It would also be helpful to have more information available at the mediation, prehearing conference, or hearing.

PROPOSED

At the same time, the board wants to keep the process for filing appeals simple enough so that it can be done on a pro se basis, will not discourage employees with legitimate disputes, and will not create traps which lock parties into positions before they are ready. The information required in this subsection attempts to balance these interests.

For the administrative convenience of the board, information is also requested, but not required, on any companion cases (e.g. a series of cases involving the same facts and issues, particularly on layoffs, allocations, or rules violations; or a series of cases involving similar issues filed by the same representative for a number of different parties). Parties are also requested to check a box indicating whether there have been prior meetings to attempt to resolve the issues or settle the matter prior to filing appeal. Prior meetings are not required in order to file an appeal. This information will assist in determining whether mediation should be attempted.

Subsection (3) deletes the requirement for a statement of the remedy requested in appeals of rule violations because this information is now required for all appeals under subsection (2).

Subsection (4) requires the date of the action and the appointment status (i.e. whether the employee is permanent and not exempt) in the case of disciplinary actions, disability separations, and layoffs or RIFs. This is necessary to help determine whether the appeal is timely filed and whether the board has jurisdiction over the matter. In disciplinary actions, the appellant must identify the nature of discipline (e.g. demotion from position "A" to position "B", "X"-day suspension, dismissal, etc.) or else provide a copy of the disciplinary letter.

Subsection (5) requests (but does not require) a copy of the director's determination in the case of allocation appeals.

Subsection (6) (formerly subsection (4)) conforms internal references with the requirements and requests for information in the preceding subsections. Copies of the draft revised form for filing appeals are available from the Personnel Appeals Board.

Subsection (7) (formerly subsection (5)) clarifies the Personnel Appeals Board's internal procedures for review of an appeal to verify that the information required in subsections (2) through (5) has been provided. It is modified to allow the appellant twenty-one days after notice from the Personnel Appeals Board to correct deficiencies in the required information.

Subsection (8) (formerly subsection (6)) corrects internal references, allows sanctions other than dismissal if required information has not been provided in accordance with the timelines of subsection (7), and allows the board, after notice is given, to dismiss an appeal for noncompliance with subsection (7) based on written argument instead of holding a hearing. However, it allows for oral argument at the request of either party.

Subsection (9) (formerly subsection (7)) is unchanged and authorizes the board to dismiss an appeal for failure to state proper grounds for the appeal if required information is not provided.

An earlier draft of this section was circulated in December. In response to comments, a number of technical changes have been incorporated, a proposed estimate of the length of hearing requested has been eliminated, and the time

for response in paragraph (7)(c) has been increased to 21 days.

Comment to WAC 358-30-005: This rule is similar to WAC 371-08-061 from the Pollution Control Hearings Board. The Personnel Appeals Board finds it necessary to make its rules more formal in order to better manage its caseload. However, in doing so, there is an increased risk that rules can be used to thwart meritorious appeals, particularly in the case of pro se appellants. This rule is intended to be used very narrowly, but will allow waiver of nonjurisdictional rules under exceptional circumstances for persons appearing pro se. In response to comments on an earlier draft, this rule has been tightened to refer explicitly to exceptional circumstances and to allow waiver only of procedural rules, such as timelines, as opposed to rules regarding the burden of proof.

Comment to WAC 358-30-010: Earlier versions of this proposed rule were circulated in July and December. The primary purpose of this amendment is to eliminate the requirement of scheduling hearings solely at the convenience of the parties, without the board having the ability to set and to manage its own schedule. Difficulty in scheduling hearings on dates convenient for all parties has been one of the major factors causing the growth of the backlog. The board is not aware of any other quasijudicial or judicial body which cannot set its own calendar. As a practical matter, the board recognizes the importance of considerations such as the availability of counsel, parties, and witnesses. A draft of the internal procedures the Personnel Appeals Board intends to use for scheduling hearings is available from the Personnel Appeals Board.

This amendment also increases the minimum notice to thirty days (up from the current fifteen and from twenty-one as proposed in the December draft) unless the parties stipulate to a shorter time. It also clarifies that hearings may be scheduled for a second setting.

Comment to WAC 358-30-020: An earlier version of this proposed rule was circulated in July. In response to comments at that time, the authority of the executive secretary to conduct mediation is made more explicit.

Comment to WAC 358-30-022: This section reflects current practice in allocations appeals in higher education. It applies consistent standards for both higher education and merit system employees. This represents a change for merit system employees, for whom the practice has been to allow evidence, including live testimony, after the director's determination. Instead, the hearing will be conducted on the basis of exceptions unless good cause is shown to conduct the hearing de novo. An earlier version of this rule was circulated in December. It has been revised to reflect technical concerns, but does not change the policy as proposed.

Comment to WAC 358-30-024: Earlier drafts of this proposed rule were circulated in July and December. In response to comments received in July, the proposed rule has been amended to allow the parties to request mediation, authorize the executive secretary to act as mediator, allow mediation conferences to be held by telephone with the consent of the parties, allow the person authorized to act on behalf of an agency to be available by telephone, make statements to the mediator privileged, provide for signed withdrawal of the appeal if the mediation is successful in

resolving the matter, have the mediator notify the Personnel Appeals Board if the mediation is not successful, encourage the mediation to merge with the prehearing conference if mediation is not successful, and facilitate the scheduling of a hearing.

In response to comments received in December, the major change is to make it explicit that settlements cannot violate a collective bargaining agreement. Concerns about involvement by the executive secretary in decisions after conducting mediation are adequately addressed in subsection (4).

Comment to WAC 358-30-026: Earlier versions of this proposed rule were circulated in July and December. In response to comments received in July, it has been amended to specify that the executive secretary, hearings examiner, or one or more board members may conduct the prehearing conference, provide for holding the prehearing conference in conjunction with mediation, clarify that prehearing conferences need not be recorded, provide that modification to an order from a prehearing conference will only be on an exceptions basis, authorize telephone conferences only with the consent of the parties, provide for setting a date for hearing, and provide for withdrawal of an appeal in the event of settlement. In response to comments in December, the authority to rule on prehearing motions has been deleted and modification is allowed on an exceptions basis without a showing of manifest injustice.

Comment to WAC 358-30-028: This specifically authorizes conferences and hearings to be held by telephone with the consent of the parties. The board will not normally allow one party to appear by telephone while the other party appears in person, but will conduct the hearing or conference by conference call.

Comment to WAC 358-30-030: This clarifies that affidavits cannot be submitted as a form of testimony at a hearing unless by stipulation or by order from a prehearing conference. In response to comments to a previous draft circulated in December, additional flexibility is provided by adding an exception to allow testimony by affidavit for good cause shown. Also in response to comments, the fee schedule for transcripts and copies of cassettes is made more flexible, although still subject to other statutes.

Comment to WAC 358-30-042: This rule is intended to bring together the various timelines for different types of motions before the Personnel Appeals Board. In accordance with the relatively informal procedures the board uses, timelines are generally shorter than in the civil rules, particularly for summary motions. The rule attempts to balance the shorter timelines of an informal process with the potential trap for the unwary by creating different timelines than those in the civil rules. In any event, the board anticipates that most timelines will be controlled by the prehearing conference statement or order.

Subsection (1) allows the prehearing conference statement or order to control, but adopts the general standard of CR 6(d) of five days notice for motions and one day for responses. It also references WAC 358-01-042, which establishes the board's designated time for considering motions, regardless of whether oral argument is allowed, and requires motions to be noted on the board's motions calendar.

Subsection (2) establishes a different standard in WAC 358-30-060 for dispositive or summary motions. In response to comments to the December draft, the timelines for these motions are lengthened and separated from the timelines for motions in limine and prehearing briefs. Motions in limine would now fall under the general rule for motions found in subsection (1), whereas prehearing briefs would be controlled by WAC 358-30-045.

Subsection (3) is merely intended as a cross-reference to point out the existence of other timelines elsewhere in the rules.

Subsection (4) provides for parties to submit to the board the original and three copies of documents relating to motions.

Comment to WAC 358-30-045: Earlier versions of this proposed rule, drawn from WAC 251-12-099, were circulated in July and December. In response to comments, references have been added to alternative timelines set at the prehearing conference and to clarify that an appeal will not be dismissed merely because some documents are not timely filed. In addition, this version differs from WAC 251-12-099 by shortening the deadline from fourteen days to three days, but is consistent with WAC 356-37-030 for practice before the Personnel Resources Board. It also adopts a deadline of one day for responsive documents by the opposing party. These timelines are made mandatory by the use of the word "shall".

Comment to WAC 358-30-060: Earlier versions of this proposed rule were circulated in July and December. In response to comments in July, it has been modified to refer to dispositive motions as well as summary motions.

Subsection (2) has been further amended to establish procedures for scheduling dispositive or summary motions. It provides for the moving party to note the motion on the board's motions calendar (see WAC 358-01-044) or to schedule it with a hearings examiner, if appropriate, and serve the motion on opposing parties. Consistent with new WAC 358-01-044, it also provides for oral argument only upon request of either party with notice to other parties. Based on comments received in December, the notice requirement is extended to twenty-one days, a cross-reference to WAC 358-30-045 is deleted, and a new provision is added requesting the moving party to make good faith efforts to consult the opposing party before scheduling the motion.

Former subsection (3) is incorporated elsewhere and is now stricken. Instead, the subsection now repeats the policy of allowing decisions based on written argument unless oral argument is requested by a party or the board or hearings examiner. It also provides for oral argument by telephone.

The deadlines in subsection (4) are significantly different as a result of comments received in December. As measured from the date set for considering the motion, the timeline will now be twenty-one days for the moving party, ten days for the response, and three days for the reply. The current standard is ten days, three days, and one day, respectively. CR 56 provides for twenty-eight days, eleven days, and five days. Under the proposed timeline, for example, if the motion is scheduled for the board's regular motion calendar at 1:30 on Monday, the 22nd of a hypothetical month, the motion would have to be filed and served twenty-one days earlier, by Monday, the 1st of the month. The response would be due ten days before the 22nd, by

Friday, the 12th. Any reply would be due three days before the 22nd; because of the application of WAC 358-30-200 (computation of time), this would be Wednesday, the 17th of the month.

Subsection (6) is added to clarify that dates may be controlled by the prehearing conference.

Comment to WAC 358-30-070: For appeals on exceptions to decisions by hearings examiners, this adds a requirement to specify the portion of the record supporting the claimed error. This does not mean that transcripts are required. Reference to the specific portion of the record may include, e.g., identification of the appropriate portion of a tape recording (such as "Direct testimony of Witness A at tape 2 of day 1, middle of side A") or a description of the location of the testimony (such as "First 5 minutes of Witness B's testimony on cross-examination, on subject X, conducted late in the morning of (date)").

Comment to WAC 358-30-080: The amendment to subsection (1) allows the board discretion to review other issues on its own motion.

The amendment to subsection (4) reflects the 1993 statutory change in which a new subsection (3) was added to RCW 41.06.170, authorizing appeals by employees exempted from civil service after July 1, 1993. The former subsection (3) was renumbered as subsection (4). This clarifies that the board's decision on an exemption is final.

Comment to WAC 358-30-082: This rule is taken from WAC 371-08-167 by the Pollution Control Hearings Board.

Comment to WAC 358-30-084: This rule allows the board to dismiss an appeal administratively if the parties have settled but have not provided the paperwork confirming settlement, if there is an undisputed lack of jurisdiction, if a party refuses to participate in a prehearing conference, or if the board cannot locate the appellant at the last address and phone number provided. It is very loosely based on WAC 251-12-103, which mandates dismissal for want of prosecution if no action is taken by the parties for three months.

Comment to WAC 358-30-090: Tighter timelines on the exchange of exhibits have been suggested. This rule allows the issue to be regulated at the prehearing conference.

Comment to WAC 358-30-110: Subsection (2) is drawn almost verbatim from WAC 263-12-01501 of the Board of Industrial Insurance Appeals, with the exception of subparagraph (e), which requires mailing of the original document, and the addition of the last sentence in subparagraph (d). The party attempting to file the document by telephone facsimile may telephone the board during regular office hours to confirm that the transmission was received.

Comment to WAC 358-30-170: This alters the burden of proof for layoffs (reductions in force) from the appellant to the respondent. Currently, the burden of proof for a layoff is on the appellant in the civil service system, but on the respondent in higher education. This amendment makes the rule consistent with higher education in WAC 251-12-240(1).

Comment to WAC 358-30-190: This merely clarifies the current requirements for service of documents filed with the board. The initial filing of the notice of appeal is exempted from the service requirement. All other documents filed with the board must be served on opposing

parties. Documents must be served on a hearings examiner only if one is assigned to hear the appeal.

Comment to WAC 358-30-220: This section has been added in response to comments received in December. Consistent with the amendment to WAC 358-30-030 (7)(b), this allows greater flexibility in updating fees to reflect costs.

Name of Agency Personnel Responsible for Drafting: Art Wang and Kenneth Latsch, 2828 Capitol Boulevard, Olympia, WA 98504-0911, (206) 586-1481; Implementation and Enforcement: Kenneth J. Latsch, 2828 Capitol Boulevard, Olympia, WA 98504-0911, (206) 664-0373.

Name of Proponent: Personnel Appeals Board, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: See Summary above.

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

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

Proposal Changes the Following Existing Rules: See Summary above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. These proposals involve state government personnel appeals only and do not affect ten percent of the small businesses in any one four-digit industrial classification nor twenty percent of all small businesses.

Hearing Location: Personnel Appeals Board, 2828 Capitol Boulevard, Olympia, WA 98504-0911, on February 21, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Kenneth J. Latsch by February 10, 1995, TDD (206) 586-1481, or (206) 664-0373.

Submit Written Comments to: Kenneth J. Latsch, 2828 Capitol Boulevard, Olympia, WA 98504-0911, FAX (206) 753-0139, by January 31, 1995.

Date of Intended Adoption: March 5, 1995.

January 12, 1995
Kenneth J. Latsch
Executive Secretary

NEW SECTION

WAC 358-01-042 Personnel appeals board—Regular meetings. (1) Regular meetings of the personnel appeals board will be held at 10:00 a.m. every Monday, except holidays, in which case the meeting will be cancelled.

(2) Allowance for public comment on the operational procedures of the personnel appeals board will be included on the agenda of the regular board meeting on the second Monday of every month. The board may invite testimony as to operational procedures from specific organizations or individuals at these meetings.

NEW SECTION

WAC 358-01-044 Personnel appeals board—Motions calendar, oral and written argument. (1) The board's normal time and place for considering motions, other than motions heard in conjunction with and at the time of hearings, shall be Mondays, except holidays, at 1:30 p.m., in

Olympia, Washington. In addition, the board may periodically announce a supplemental calendar of dates and times for considering motions in other locations throughout the state. Except when presented at hearings, all motions shall be submitted in writing. The party making the motion shall note the motion on the board's motions calendar, regardless of whether or not oral argument is requested.

(2) At the request of either party, oral argument shall be allowed for dispositive motions, such as motions to dismiss or motions for summary judgment. Oral argument may be presented by telephone or other electronic media pursuant to WAC 358-30-028. Nondispositive motions shall be considered upon written argument and affidavit only unless the board specifically authorizes oral argument.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-20-010 Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation. Any permanent employee subject to the statutory jurisdiction of the personnel appeals board who is dismissed, demoted, suspended, reduced in pay, dismissed for abandonment or given a disability separation may appeal to the personnel appeals board.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-20-020 Appeal from violation of law or rules. An employee who is adversely affected by a violation of the state civil service law (chapter 41.06 RCW) or of the ((merit system rules (Title 356 WAC))) rules promulgated thereunder (Titles 251, 356 and 359 WAC), including rules regarding a layoff or reduction in force, may appeal to the personnel appeals board.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-20-030 Appeal of allocation or reallocation. An employee incumbent in a position at the time of its allocation or reallocation or the agency/institution of higher education or related board utilizing the position may appeal by filing exceptions to the determination of the director of personnel or designee ((issued pursuant to WAC 356-10-060(5))).

NEW SECTION

WAC 358-20-032 Appeal from exemption of position. An employee whose position has been exempted after July 1, 1993, may appeal the exemption to the personnel appeals board.

AMENDATORY SECTION (Amending Order 87-1, filed 9/30/87)

WAC 358-20-040 Filing appeals. (1) An appeal must be received in writing at the principal office of the personnel appeals board within 30 days after: (a) The effective date of the disciplinary or dismissal for abandonment action (WAC 358-20-010); (b) notification of disability separation (WAC 358-20-010); (c) notification of the allocation determination

of the director of personnel or director's designee made pursuant to WAC 356-10-060(5), 251-06-060, or their successor rule or rules (WAC 358-20-030); ((or)) (d) the effective date of the exemption of a position (WAC 358-20-032); or (e) the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim under WAC 358-20-020 or the stated effective date of the action, whichever is later.

(2) The appeal shall include the name and address of the appellant, the name of the ((employing)) agency, ((and)) or institution of higher education and any relevant department that took the action which is being appealed, a telephone number at which the appellant can be reached, the job classification or position of the employee at the time of the action which is being appealed, a short statement of the grounds or reasons for the appeal, a short statement of the relief or remedy sought by the appellant, and a brief explanation if the appellant does not believe this case would be appropriate for mediation. The appeal should also include a listing of any related or companion cases filed, if known, and an indication of whether the parties have met to attempt to resolve the issue prior to filing the appeal. The appellant is responsible for notifying the board of any change in address or telephone number. Appellants who are represented shall include the name, address and telephone number of their representative.

(3) An appeal of a violation of the state civil service law or of the ((merit system)) rules promulgated thereunder must cite the law(s) or rule(s) which the appellant claims has been violated, the particular circumstances of the alleged violation, and how the employee is adversely affected by the alleged violation ((and the remedy requested)).

(4) An appeal of a disciplinary action, disability separation, or layoff or reduction in force shall include the effective date of the action and the employee's appointment status at the time of the action. An appeal of a disciplinary action shall include a short statement of the nature of the disciplinary action which is being appealed or a copy of the disciplinary letter from the agency or institution of higher education.

(5) An appeal of an allocation determination should include a copy of the determination of the director or designee of the department of personnel.

(6) Forms which may be used in filing appeals shall be available from the executive secretary of the board. ((The forms shall contain appropriate spaces for the information required by subsections (2) and (3) of this rule.)) In the alternative, appellants may prepare and use their own appeal documents. However, such documents must contain all of the information required by subsections (2) ((and (3))) through (5) of this ((rule)) section, as appropriate.

((5)) (7)(a) Upon receipt of an appeal, the executive secretary ((may)) or his/her designee will review the document(s) filed to determine whether the information required by ((subsections (2) and (3) of)) this ((rule)) section has been provided.

(b) If any of the required information is not ((contained on)) provided with the appeal ((documents)), the ((executive secretary shall direct the)) appellant will be directed, with notification to all affected parties, to provide such information.

~~(c)~~ (c) The appellant must provide the missing information ~~((to the executive secretary))~~ as requested within ~~((fifteen))~~ twenty-one calendar days of the date ~~((the executive secretary mails))~~ the notification is mailed.

~~(d)~~ Upon receipt of the requested information, the executive secretary ~~((of the personnel appeals board shall))~~ or his/her designee will send a copy to the other affected parties.

~~((6))~~ (8) If an appellant fails to provide required information within the time limits set forth in subsection ~~((5))~~ (7) of this ~~((rule))~~ section, the executive secretary or his/her designee shall note the matter for a dismissal ~~((hearing before))~~ or other nonmonetary sanctions by the board. ~~((At the dismissal hearing,))~~ The executive secretary or his/her designee shall provide notice to the parties that the matter will be considered for dismissal by the board. The board's order will be based on the information available at the time the matter is considered for dismissal. The appellant shall have the burden of demonstrating compliance with ((subsections (2) and (3) of)) this ((rule)) section. The respondent(s) may ((appear and present)) submit written argument ((at the dismissal hearing)) prior to the date set for the board's dismissal of the appeal. Oral argument shall be allowed at the request of either party and may be presented by telephone or other electronic media pursuant to WAC 358-30-028.

~~((7))~~ (9) Failure of an appellant to comply with the requirements of this ~~((rule))~~ section may result in dismissal for failure to state grounds for an appeal.

NEW SECTION

WAC 358-30-005 Waiver of rules to prevent manifest injustice to parties not represented by legal counsel. Under exceptional circumstances, the board may waive any of these procedural rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel where necessary to avoid manifest injustice.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-010 Acknowledgment of appeal, setting of hearing. (1) Upon receipt of an appeal, the executive secretary of the personnel appeals board or designee will acknowledge receipt of the appeal ~~((and))~~ send a copy to the other affected parties, and, when applicable, request a copy of the action letter and supporting documentation from the appropriate party.

(2) The executive secretary or his/her designee will review all appeal(s) for compliance with the timeliness requirements of RCW 41.06.170 and WAC 358-20-040. If an appeal appears to be untimely filed, the executive secretary or his/her designee shall direct the parties to submit affidavits and/or written argument in support of or in opposition to dismissal of the appeal. In addition, a motion to dismiss for untimeliness may be submitted by any party to an appeal at any time during the appeal process.

(3) A hearing before the personnel appeals board or hearings examiner shall be ((arranged after consultation with the parties for a time mutually convenient but never less than 15 days notice of such hearing)) scheduled with written notice, specifying the time and place of the hearing provided

to all parties of record to an appeal. Notice of hearing shall be mailed not less than thirty days prior to the date of the hearing, unless all parties agree to ((waive such notice)) a shorter notice period. Hearings may be scheduled for primary and/or secondary settings.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-020 Hearings examiners. The personnel appeals board may appoint one or more hearings examiners to conduct mediation, preside at prehearing conferences, and/or preside ((over)) at hearings and make recommended decisions in accordance with rules established by the personnel appeals board in all cases of employee appeals to the board. Hearings examiners ((shall)) may be retained with a personal services contract and compensated ((for each hearing)) in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto. Hearings examiners shall conduct hearings in the same manner and shall have the same authority as the personnel appeals board when conducting hearings. The executive secretary may act as a hearings examiner for the purpose of conducting mediation, presiding at prehearing conferences and making prehearing orders.

NEW SECTION

WAC 358-30-022 Hearings on appeals of allocation determinations. (1) Following a review by the director of the department of personnel or designee and within thirty calendar days of the date of service of the director's determination, either party may appeal an allocation or reallocation determination to the board. The appeal shall be in writing and shall detail the specific items of the director's determination to which exception is taken.

(2) The hearing shall be limited to the exceptions set forth in the notice of appeal unless otherwise determined by the board. Either party may petition the board for good cause shown to conduct the hearing on a de novo basis.

NEW SECTION

WAC 358-30-024 Mediation. (1) **Purpose.** The board finds that a mediation process, in which the parties, through an independent mediator, seek a settlement of their disputes in good faith, offers an opportunity early in the appeals process to settle disputes with less cost and time, and to the satisfaction of all parties. Such a process also offers the board the opportunity to concentrate its limited resources on timely resolution of those appeals which the parties have been unable to resolve.

(2) **Process.** After an appeal including all of the required documentation is received, the executive secretary or his/her designee shall:

(a) Review the file to determine whether the matter in dispute is amenable to a mediation process;

(b) Notify the parties that their appeal has been designated for mediation, if the executive secretary or designee determines that mediation would be appropriate or if the parties have jointly requested mediation;

(c) Assign the case to a hearings examiner for mediation. The executive secretary may act as a hearings examin-

er for this purpose. Nothing in this section prevents the parties from selecting their own mediator. However, if a mediator other than the one designated by the board is selected, the parties shall pay the cost of the mediator.

(3) **Mediation.** After selection of a mediator, the parties shall meet at least once and engage in a good faith attempt to negotiate a resolution of the appeal. Such a conference shall take place within thirty days after the parties are notified that their case has been designated for mediation. The conference may be held by telephone with the consent of the parties. The appellant and at least one designee of the employing agency or institution of higher education shall personally attend the mediation conference, unless excused by the mediator. If the designee of the agency or institution of higher education does not have authority to act on behalf of the agency or institution of higher education, a person with the requisite authority shall be available by telephone. The parties may also have representatives of their choosing at the conference.

(4) **Mediation and settlement conferences privileged.** The proceedings of any mediation or settlement conference shall not be reported or recorded in any manner, except for agreements that may be reached by the parties during the course of the conference. Statements made by or to the mediator, or by or to any party or other participant in the conference, may not later be introduced as evidence, may not be made known to the board or hearings examiner at a hearing, or may not be construed for any purpose as an admission against interest, unless they are independently admissible. No party shall be bound by anything done or said at the conference unless a settlement is reached. If a settlement is reached, the agreement shall be reduced to writing and shall be binding upon all parties to that agreement and the appellant shall sign a request to withdraw the appeal. Any settlement reached shall not violate civil service laws or the rules promulgated thereunder or any collective bargaining agreement affecting the parties then in force.

(5) **Exemption from mediation.** A party for good cause shown, or the parties by agreement, may decline to engage in the mediation process.

(6) **Mediation available.** If an appeal is not initially selected by the executive secretary or designee as appropriate for mediation, or if at any time prior to the appeal hearing a party or parties desire to engage in the mediation process, application may be made to the executive secretary for appointment of a mediator in the manner provided in subsection (2)(c) of this section.

(7) **Post-mediation process.** If the parties have been unable to resolve their dispute through mediation, the hearings examiner conducting the mediation may direct the parties to proceed to a prehearing conference either immediately or at a later date. The hearings examiner shall also ask the parties to identify acceptable dates for a hearing and shall attempt to schedule the hearing in consultation with the board.

The hearings examiner shall notify the executive secretary of the failure to reach settlement. If not already scheduled, the executive secretary or designee shall then begin the process of scheduling the appeal for hearing, including setting a prehearing conference when appropriate.

NEW SECTION

WAC 358-30-026 Prehearing conference. (1) The board, the executive secretary, or the hearings examiner may direct the parties or their representatives to engage in a prehearing conference or conferences to consider the following:

- (a) Simplification or limitation of issues;
- (b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (c) Discovery, discovery methods and discovery deadlines;
- (d) The number of witnesses expected to be called and their names when possible;
- (e) The approximate time necessary for presentation of the evidence of the respective parties;
- (f) Motions and deadlines for motions;
- (g) Exhibits;
- (h) Affidavits; and
- (i) Such other matters as may aid in the prompt disposition of the appeal.

(2) A prehearing conference may be conducted by the executive secretary, a hearings examiner, or one or more board members. It may be held in conjunction with a mediation conference.

(3) The results of the prehearing conference shall be stated on the record of the proceeding, if any, or in a subsequent written order. The statement or order shall include, where applicable, agreements or rulings concerning issues, admissions, stipulations, witnesses, discovery, length of hearing, motions, exhibits, affidavits, and other matters that may expedite the appeal hearing. The statement or order resulting from the prehearing conference shall control the subsequent course of the appeal, subject to modification upon a filing of exceptions to the statement or order.

(4) Prehearing conferences may be held by telephone with the consent of the parties or in person at a time and place specified by the board, the executive secretary, or the hearings examiner. Refusal by a party to participate in a prehearing conference may result in dismissal of the appeal, or other appropriate sanctions.

(5) During a hearing, the board or the hearings examiner may recess the hearing for the purpose of carrying out the provisions of subsection (1) of this section.

(6) The parties are encouraged where possible to resolve their disputes by agreement. To facilitate such resolution, the presiding officer, at the prehearing conference, may recess the conference at any time to give the parties time to discuss settlement of their dispute. In the event settlement is reached, the fact of settlement shall be stated on the record, if any, of the prehearing conference or in a written order, the parties shall indicate their concurrence on the record, and the appellant shall sign a request to withdraw the appeal. If no settlement is reached at a prehearing conference, the presiding officer shall ask the parties to identify acceptable dates for a hearing and shall attempt to schedule the hearing in consultation with the board.

NEW SECTION

WAC 358-30-028 Hearings and conferences by telephone. Mediation conferences, settlement conferences, hearings on motions, and full hearings may be conducted by telephone or other electronic media with the consent of the parties. If one party appears by telephone, all other parties shall appear by similar medium and shall not appear in person, unless the party appearing by telephone or other electronic media specifically authorizes the other parties to appear in person due to exceptional circumstances.

AMENDATORY SECTION (Amending Order 85-2, filed 9/19/85)

WAC 358-30-030 Hearings. (1) Hearings on all appeals shall be open to the public unless the personnel appeals board or hearings examiner determines there is substantial reason for not having an open hearing, or the employee so requests.

(2) The hearing shall be informal. Technical rules of evidence shall not apply to the proceedings, except for the rules of privilege recognized by law.

(3) All parties may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the personnel appeals board or hearings examiner.

(4) All testimony shall be on oath administered by a member of the personnel appeals board or hearings examiner. Testimony by affidavit shall not be admitted at a hearing except for good cause shown, or as otherwise permitted in these rules, as provided in a prehearing conference statement or order, or by stipulation of the parties.

(5) One member of the personnel appeals board may hold a hearing and take testimony to be reported for action by the board. Any such hearing shall be done only at the direction of the chairperson of the board or as provided in these rules.

(6) The personnel appeals board or hearings examiner shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

(7) The personnel appeals board or hearings examiner shall not be required to transcribe such record unless requested by the parties. A transcript can be obtained:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, a transcript can be ordered from the court reporter.

(b) If the proceedings were recorded mechanically, a copy of transcript or copies of cassettes can be ordered from the board for ~~(\$2.50 a page. Copies of cassettes may be obtained for \$5.00 for the first tape and \$3.00 for each additional tape)~~ a reasonable charge.

NEW SECTION

WAC 358-30-042 Motions, generally—Time lines. (1) The moving party shall schedule motions by noting them on the board's motions calendar pursuant to WAC 358-01-044 or by scheduling them with the hearings examiner if one has been assigned. Except as otherwise provided in a prehearing conference statement or order or as otherwise specifically provided in these rules, written motions and any

supporting affidavits shall be filed and served not less than five days before the date on which the motion has been noted for consideration by the board or scheduled by the hearings examiner; responses to the motion and any opposing affidavits shall be filed and served not less than one day before the date on which the motion has been noted for consideration by the board or scheduled by the hearings examiner.

(2) Except as otherwise provided in a prehearing conference statement or order, dispositive or summary motions shall be filed and served pursuant to WAC 358-30-060.

(3) Additional time requirements for motions may be found in WAC 358-30-015 for motions for a more definite statement and in WAC 358-30-040 for motions for continuance.

(4) Any party submitting documents in support of or opposition to a motion will provide the original and three copies to the board, and one copy to each opposing party.

NEW SECTION

WAC 358-30-045 Filing of prehearing statements, briefs, and written argument. (1) Any party to a hearing before the board who desires to submit, or when the board or designee requests all parties to submit, a prehearing statement, prehearing brief, or written argument shall provide such documents to the board and to each opposing party no later than three days prior to the scheduled hearing date or at such time as set at the prehearing conference. Any response shall be served no later than one day prior to the scheduled hearing date or at such time as set at the prehearing conference.

(2) Any party submitting such documents will provide the original and three copies to the board, and one copy to each opposing party.

(3) Submission of documents will be accomplished when the document is received in the principal office of the board in Olympia, Washington. The board or designee may refuse to consider documents that are untimely filed.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-060 Dispositive and summary motions. (1) The personnel appeals board, or a hearings examiner, may decide all, or any part, of an appeal by motion, after ~~((a hearing and))~~ notice to all parties, if the documents on file, depositions and affidavits, if any, show there is no genuine issue as to any material fact and the appeal should be decided or dismissed as a matter of law.

(2) Dispositive or summary motions may be made ~~((at any time))~~ by any party. The motion shall be in writing which sets forth the basis for the motion and shall be filed with the executive secretary of the personnel appeals board. The moving party shall note the motion on the board's motions calendar or schedule it with the hearings examiner and shall serve the motion, any memoranda or affidavits, and the notice of date scheduled for consideration of the motion on all parties at least twenty-one days before the date scheduled. The moving party should make a good faith effort to consult the opposing party as to scheduling the motion prior to noting it on the board's motions calendar.

The board or hearings examiner shall allow oral argument on the motion at the request of either party. The party requesting oral argument shall notify the board or hearings examiner and all parties of the request.

~~(3) (If motions are made prior to the hearing date, or if no hearing date has been assigned, the motion may be heard by the board as provided in WAC 358-30-030, or by the hearings examiner. Any such motion shall be in writing which sets forth the basis for the motion and shall be filed with the executive secretary of the personnel appeals board and served on all parties. After receipt of the motion, the parties will be notified by the executive secretary or hearings examiner, at least ten days in advance, of the time and place of the hearing on the motion.)~~ The motion may be decided based on written argument and affidavits only unless a party or the board or hearings examiner requests oral argument. Oral argument may be presented by telephone or other electronic media pursuant to WAC 358-30-028.

(4) Any affidavits to be filed in support of a motion shall be served with the motion at least twenty-one days prior to the date scheduled for consideration of the motion. Responses to the motion and any opposing affidavits shall be filed and served at least ~~((three))~~ ten days prior to the ~~((hearing))~~ date scheduled. Any reply and any counter affidavits by the moving party shall be filed and served at least ~~((one day))~~ three days prior to the ~~((hearing))~~ date scheduled.

(5) When an appeal is dismissed or decided on motion, an order, or recommended order shall be issued as in other cases of appeal to the personnel appeals board.

(6) Deadlines in this rule may be altered as otherwise provided in a prehearing conference statement or order.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-070 Recommended decisions of hearings examiners—Exceptions. (1) A hearings examiner shall serve his/her recommended decision, including findings of act, conclusions of law, and order, upon the personnel appeals board and upon each party and representative as soon as possible after conclusion of the hearing. Service to the employing agency or institution of higher education and to the employee or the employee's designated representative shall be made by certified mail, a return receipt requested.

(2) Within 30 days after service of the recommended decision, any party adversely affected thereby may take exception to the personnel appeals board by filing a written notice of exceptions at the principal office of the personnel appeals board. The notice shall set forth specific exceptions to the recommended decision including each finding of fact and conclusion of law to which exception is taken and any additional errors the parties contend were made by the hearings examiner. If a party contends a finding of fact is incorrect, or that the examiner has made any other error which requires a review of the record, the party shall identify in the notice the specific portion or portions of the record which it contends supports each claimed error.

(3) If no exceptions are filed, the recommended decision shall become final within 40 days after service thereof, unless the personnel appeals board notifies each party within

that 40-day period that a hearing will be scheduled to consider the recommended decision.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-080 Hearing on exceptions—Orders of board. (1) The hearing by the personnel appeals board on exceptions from a recommended decision of a hearings examiner shall be limited to the contentions set forth in the notice of exceptions unless the board itself chooses to review other matters.

(2) The personnel appeals board will issue its decision within 30 days after the conclusion of the hearing.

(3) When the construction of a rule, regulation or statute is in question the board will issue findings of fact, conclusions of law and its order.

(4) The decision and order of the personnel appeals board shall be final in cases filed pursuant to RCW 41.06.170 (3) or (4). In cases filed pursuant to RCW 41.06.170(2) the order and decision of the personnel appeals board shall be final subject to action by the court on appeal.

NEW SECTION

WAC 358-30-082 Default at hearings. If a party fails to attend or participate in a hearing or other stage of an adjudicative proceeding, the board may serve upon all parties a default or dismissal order which shall include a statement of the grounds for the order. Within seven days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon.

NEW SECTION

WAC 358-30-084 Dismissal by board. (1) In all appeals filed with the personnel appeals board:

(a) Where the parties have indicated that the case has been settled and ready for dismissal and where there has been no action by the parties during the preceding thirty days; or

(b) When the board deems it appropriate for lack of timeliness or any other jurisdictional matter where there is no question of fact; or

(c) When a party refuses to participate in a prehearing conference pursuant to WAC 358-30-026(4); or

(d) When the board is unable to contact the appellant at the last address and telephone number provided by the appellant, the executive secretary or his/her designee may mail notice to the appellant or the appellant's representative and to the respondent or the respondent's representative that the appeal will be dismissed by the board unless within fifteen days following the date of service of the notice a written request is made to the board and good cause is shown why the appeal should be continued as a pending case.

(2) If no request is made, the matter will be brought before the board for dismissal.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-090 Exhibits at hearings. At any hearing before the personnel appeals board or hearings examiner when exhibits are offered, copies shall be furnished to the opposing party, to each board member or hearings examiner and for the official file. The parties should interchange copies of exhibits before or at the commencement of the hearing. The number, scope and timing of exhibits may be limited pursuant to the prehearing conference.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-110 Filing papers with the personnel appeals board. (1) Filing generally. Papers which must be filed with the personnel appeals board shall not be deemed filed until actual receipt of the papers in the principal office of the personnel appeals board in Olympia, Washington during customary office hours. The executive secretary or designee shall issue a receipt and an acknowledgment stating the date filed.

(2) Filing by telephone facsimile.

(a) The filing of a written communication with the board by telephone facsimile is perfected when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment in Olympia. The hours of operation of the board's telephone facsimile equipment are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays. If a transmission of a written communication commences after these hours of operation the written communication shall be deemed filed on the next succeeding business day.

(b) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission.

(c) No written communication filed by telephone facsimile should exceed fifteen pages in length, exclusive of the cover page required by this rule.

(d) The party attempting to file the written communication by telephone facsimile bears the risk that the written communication will not be timely received or legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board or to the line being busy. If the telephone facsimile is not received in legible form, it will be considered as if it had never been sent.

(e) The original of any document filed by telephone facsimile should be mailed to the board within twenty-four hours of the time that the telephone facsimile was sent.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-170 Burden of proof. At any hearing on appeal from a layoff or reduction in force, dismissal, suspension, demotion, reduction in pay, dismissal for

abandonment or disability separation the appointing authority shall have the burden of supporting the charges upon which the action was initiated. At any other hearing, the party filing the action shall have the burden of proof.

AMENDATORY SECTION (Amending Order 81-4, filed 12/16/81)

WAC 358-30-190 Service. (1) All notices, documents and other papers (~~required under the personnel appeals board rules to be filed or served, shall be~~) filed with the board (~~and~~), after the initial filing of the appeal, shall be served upon each of the parties and the hearings examiner to whom the appeal is assigned, if any, all within the time stated. Service shall be made personally, or, except as provided in WAC 358-30-070(1), by first class mail.

(2) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail three days after deposit in the United States mail properly stamped and addressed.

AMENDATORY SECTION (Amending Order 85-2, filed 9/19/85)

WAC 358-30-220 Record for the court—Transcripts on appeal. (1) By stipulation the parties may agree to shorten the record to be filed with the court. The appellant shall contact counsel for the respondent to discuss stipulating to a shortened record. Either party unreasonably refusing to stipulate to such a limitation may be ordered by the court to pay the additional costs involved.

(2) Within 10 days after filing the notice of appeal, the appellant will notify the board in writing of the portion of the record to be filed.

(3) The transcript certified to the court will be paid for by the board.

(4) The parties may obtain a copy of a transcript to be used on appeal:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, a copy of the transcript can be ordered from the court reporter.

(b) If the proceedings were recorded mechanically, a copy can be ordered from the board for ~~((35 cents))~~ a reasonable charge per page.

~~((4))~~ (5) The board shall transmit to the court a certified transcript of the hearing with exhibits.

WSR 95-03-063

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed January 13, 1995, 3:55 p.m.]

Original Notice.

Title of Rule: Chapter 182-13 WAC, State resident—Medicare supplement.

Purpose: Establishes criteria for state residents for participation in Medicare supplement coverage available through the Health Care Authority.

Statutory Authority for Adoption: RCW 41.05.197.

Summary: The proposed regulation sets eligibility requirements for state residents applying for Medicare

PROPOSED

PROPOSED

supplement coverage and establishes timeframes in which eligible residents can apply.

Reasons Supporting Proposal: Congress failed to waive requirements of the Medicare statute, Title XVIII of the federal Social Security Act, as amended, prior to January 1, 1995, to allow for implementation of chapter 492, Laws of 1993. As the waiver was not granted, RCW 41.05.197 requires that Medicare supplement insurance policies authorized under RCW 41.05.195 be made available to any resident of the state eligible for Medicare benefits.

Name of Agency Personnel Responsible for Drafting: Elin Meyer, Lacey, Washington, (360) 923-2801; Implementation and Enforcement: Gary Christenson, Lacey, Washington, (360) 923-2838.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Defines eligibility requirements for state resident application for Medicare supplement coverage arranged by the Health Care Authority. Also defines timeframes that eligible residents may apply for coverage arranged by the Health Care Authority.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not required. The rule will have a minor or negligible economic impact.

Hearing Location: 676 Woodland Square Loop S.E., Building B, 3rd Floor, Northwest Room, Lacey, WA, on February 23, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Nikki Woehl or Julie Dickinson by February 16, 1995, TDD (360) 923-2805, or (360) 923-2817.

Submit Written Comments to: Elin Meyer, Rules Coordinator, P.O. Box 42705, Olympia, WA 98504-2705, FAX (360) 923-2607, by February 16, 1995.

Date of Intended Adoption: February 23, 1995.

January 13, 1995

Elin Meyer

Rules Coordinator

**Chapter 182-13 WAC
STATE RESIDENT - MEDICARE SUPPLEMENT**

NEW SECTION

WAC 182-13-010 Purpose. The purpose of this chapter is to establish criteria for state residents for participation in Medicare supplement coverage available through the HCA.

NEW SECTION

WAC 182-13-020 Definitions. Unless otherwise specifically provided, the definitions contained in this section apply throughout this chapter.

(1) "HCA" means the Washington state health care authority.

(2) "Health plan," or "plan" means any individual or group: Policy, agreement, or other contract providing coverage for medical, surgical, hospital, or emergency care

services, whether issued, or issued for delivery, in Washington or any other state. "Health Plan" or "plan" also includes self-insured coverage governed by the federal Employee Retirement Income Security Act, coverage through the Health Insurance Access Act as described in chapter 48.41 RCW, coverage through the Basic Health Plan as described in chapter 70.47 RCW, and coverage through the Medicaid program as described in Title 74 RCW. "Health plan" or "plan" does not mean or include: Hospital confinement indemnity coverage as described in WAC 284-50-345; disability income protection coverage as described in WAC 284-50-355; accident only coverage as described in WAC 284-50-365; limited benefit health insurance coverage as described in WAC 284-50-370; long-term care benefits as described in chapter 48.84 RCW; or limited health care coverage such as dental only, vision only, or chiropractic only.

(3) "Lapse in coverage" means a period of time greater than ninety continuous days without coverage by a health plan.

(4) "Resident" means a person who demonstrates that he/she lives in the state of Washington at the time of application for, and issuance of coverage.

NEW SECTION

WAC 182-13-030 Eligibility. Residents are eligible to apply for Medicare supplement coverage arranged by the HCA when they are:

- (1) Eligible for Parts A and B of Medicare, and
- (2) Actually enrolled in both Parts A and B of Medicare not later than the effective date of Medicare supplement coverage.

NEW SECTION

WAC 182-13-040 Application for Medicare supplement coverage. Residents meeting eligibility requirements may apply for Medicare supplement coverage arranged by the HCA:

- (1) During the initial open enrollment period of January 1 through June 30, 1995, or
- (2) Within sixty days after becoming a resident, or
- (3) In the thirty day period before the resident becomes eligible for Medicare, or
- (4) Within sixty days of retirement, or
- (5) During any open enrollment period established by federal or state law, or
- (6) During any open enrollment period established by the HCA subsequent to the initial open enrollment period provided that the applicant is replacing a health plan with no lapse in coverage.

WSR 95-03-066
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
(By the Code Reviser's Office)
[Filed January 17, 1995, 8:30 a.m.]

January 17, 1995
Donald H. Williams
Executive Director

WAC 232-28-61952, proposed by the Department of Fish and Wildlife in WSR 94-14-108, appearing in issue 94-14 of the State Register, which was distributed on July 20, 1994, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 95-03-069
WITHDRAWAL OF PROPOSED RULES
OFFICE OF MINORITY AND
WOMEN'S BUSINESS ENTERPRISES
[Filed January 17, 1995, 9:22 a.m.]

The Office of Minority and Women's Business Enterprises hereby withdraws proposed amended rule WAC 326-02-030 filed with your office on October 18, 1994, as WSR 94-21-084.

James A. Medina
Director

WSR 95-03-070
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed January 17, 1995, 10:00 a.m.]

Continuance of WSR 94-19-094.

Title of Rule: Professional education.

Purpose: To clarify procedures relating to approval of continuing education and approval of continuing education providers.

Statutory Authority for Adoption: RCW 18.64.005.

Summary: These revisions clarify procedures relating to approval of continuing education and approval of continuing education providers.

Reasons Supporting Proposal: These changes will streamline the process for approval of continuing education and approval of continuing education providers.

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

Hearing Location: Firgrove Business Park, 2413 Pacific Avenue, Olympia, WA 98504, on February 15, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Lisa Salmi by February 1, 1995, TDD (206) 664-0064, or 1-800-525-0127, ext. 753-6834.

Submit Written Comments to: Donald Williams, P.O. Box 47863, Olympia, WA 98504-7863, by February 1, 1995.

Date of Intended Adoption: February 15, 1995.

WSR 95-03-071
PROPOSED RULES
SPOKANE COUNTY AIR
POLLUTION CONTROL AUTHORITY
[Filed January 17, 1995, 2:30 p.m.]

Original Notice.

Title of Rule: Regulation I, Article VI, Section 6.16 Motor Fuel Specifications for Oxygenated Gasoline.

Purpose: To require specified levels of oxygen in gasoline in the Spokane control area for specified periods.

Statutory Authority for Adoption: RCW 70.94.141.

Statute Being Implemented: Chapter 70.94 RCW and 42 USC 7502.

Summary: Adds a new section to Article VI to require a temporary increase in oxygenate in gasoline above the state standard (chapter 173-492 WAC).

Reasons Supporting Proposal: A temporary increase in oxygenate is needed to show attainment of the carbon monoxide national ambient air quality standard under the schedule for moderate nonattainment areas.

Name of Agency Personnel Responsible for Drafting: Eric Skelton, Spokane, (509) 456-4727; Implementation: Ron Edgar, Spokane, (509) 456-4727; and Enforcement: Mabel Caine, Spokane, (509) 456-4727.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

Rule is necessary because of federal law, 42 USC 7502.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule requires an increase in the oxygenate content of gasoline in order for the Spokane carbon monoxide nonattainment area to attain and maintain the standard.

Proposal Changes the Following Existing Rules: Presently the state regulation solely applies to the Spokane control area (chapter 173-492 WAC). This proposal is temporarily more stringent than the state regulation.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Spokane County Air Pollution Control Authority, as a municipal corporation, is not required to prepare small business economic impact statements.

Hearing Location: Hearing Room, Spokane County Public Works Building, 1026 West Broadway, Spokane, WA, on March 2, 1995, at 9:00 a.m.

Submit Written Comments to: Eric Skelton, Spokane County Air Pollution Control Authority, 1101 West College, Suite 403, Spokane, WA 99201, FAX (509) 459-6828, by February 27, 1995.

Date of Intended Adoption: March 2, 1995.

January 12, 1995
Eric Skelton
Director

PROPOSED

NEW SECTION**SECTION 6.16 MOTOR FUEL SPECIFICATIONS FOR OXYGENATED GASOLINE**

A. Purpose. This Section establishes motor fuel specifications for oxygenated gasoline in order to reduce wintertime carbon monoxide emissions from gasoline powered motor vehicles.

B. Applicability. This section applies to the Spokane Control Area as defined in Chapter 173-492-070 of the Washington Administrative Code (WAC).

C. Definitions. Unless a different meaning is clearly required by context, words and phrases used in the Section shall have the following meaning:

1. Authority means the Spokane County Air Pollution Control Authority.

2. Ecology means the Washington Department of Ecology.

3. Effective Date, in reference to the amendment to Chapter 173-422 WAC, means the initial date in which any registered motor vehicle in Spokane County is required to undergo an emissions test of the type required by Section 187 (a)(6) of the Federal Clean Air Act, as a condition of motor vehicle registration.

4. Enhanced Vehicle Inspection & Maintenance Program has the same meaning as in Section 187 (a)(6) of the Federal Clean Air Act.

5. EPA means the United States Environmental Protection Agency or the Administrator of the United States Environmental Protection Agency or his/her designated representative.

6. Federal Clean Air Act means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392, December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

7. Maximum Allowable Oxygenate means the maximum amount of an oxygenate which may be added to gasoline without exceeding the limits for fuel additives established under Section 211(f) of the Federal Clean Air Act.

8. Reasonable Further Progress has the same meaning as in Section 171(1) of the Federal Clean Air Act.

9. Spokane Carbon Monoxide Nonattainment Area has the same meaning as in CFR Title 40, Part 81.

10. WAC means the Washington Administrative Code.

D. Adoption of state regulation by reference. Except for Subsection 173-492-040(2), Chapter 173-492 WAC is hereby adopted by reference, to the extent that it applies to the Spokane Control Area.

E. Blend requirements for non-ethanol oxygenates. During the control period, gasoline intended as a final product for fueling of motor vehicles within the Spokane Control Area and supplied by blenders to purchasers within the Spokane Control Area, shall be blended with the maximum allowable oxygenate unless the oxygenate is ethanol.

F. Blend requirements for ethanol as an oxygenate. The following requirements shall apply during the control period to gasoline intended as a final product for fueling of motor vehicles within the Spokane Control Area and supplied by blenders to purchasers within the Spokane Control Area when ethanol is blended as an oxygenate:

1. The following requirements shall apply if the effective date of the amendment to Chapter 173-422 WAC is no later than September 1, 1996:

a. Gasoline shall be blended with the maximum allowable oxygenate for the control period beginning on September 1, 1995.

b. Oxygen in the gasoline shall be no less than 3.3% by weight for the control period beginning on September 1, 1996.

c. Sections 6.16E&F. of Regulation I are repealed and Subsection 173-492-040(2) of Chapter 173-492 WAC is adopted by reference as of September 1, 1997.

2. The following requirements shall apply if the effective date of the amendment to Chapter 173-422 WAC is after September 1, 1996:

a. Gasoline shall be blended with the maximum allowable oxygenate for the control period beginning on September 1, 1995.

b. Oxygen in the gasoline shall be no less than 3.3% by weight for the control period beginning on September 1, 1996.

c. Oxygen in the gasoline shall be no less than 3.0% by weight for the control period beginning on September 1, 1997.

d. Sections 6.16E&F. of Regulation I are repealed and Subsection 173-492-040(2) of Chapter 173-492 WAC is adopted by reference as of September 1, 1998

G. Contingency measure. The following requirements shall apply in the event the EPA determines that the Spokane Carbon Monoxide Nonattainment Area has failed to make Reasonable Further Progress or has failed to timely attain a National Ambient Air Quality Standard for carbon monoxide or has violated a National Ambient Air Quality Standard for carbon monoxide after redesignation as an attainment area, and wintertime emissions from gasoline powered motor vehicles are determined by the EPA, in consultation with Ecology and the Authority to be a contributing factor to such failure or violation:

1. Gasoline intended as a final product for fueling of motor vehicles within the Spokane Control Area and supplied by blenders to purchasers within the Spokane Control Area shall be blended with the maximum allowable oxygenate for the control period beginning after such determination and for all subsequent control periods, and

2. Sections 6.16E&F. of Regulation I are repealed as of the control period beginning after such determination.

WSR 95-03-074**WITHDRAWAL OF PROPOSED RULES
HEALTH CARE AUTHORITY**

[Filed January 17, 1995, 3:49 p.m.]

Chapter 182-13 WAC, filed on January 13, 1995, as WSR 95-03-063 is withdrawn. It was missing text and will be refiled immediately.

Elin S. Meyer
Rules Coordinator

WSR 95-03-075
PROPOSED RULES
HEALTH CARE AUTHORITY

[Filed January 17, 1995, 3:51 p.m.]

Original Notice.

Title of Rule: Chapter 182-13 WAC, State resident—Medicare supplement.

Purpose: Establishes criteria for state residents for participation in Medicare supplement coverage available through the Health Care Authority.

Statutory Authority for Adoption: RCW 41.05.197.

Summary: The proposed regulation sets eligibility requirements for state residents applying for Medicare supplement coverage and establishes timeframes in which eligible residents can apply.

Reasons Supporting Proposal: Congress failed to waive requirements of the Medicare statute, Title XVIII of the federal Social Security Act, as amended, prior to January 1, 1995, to allow for implementation of chapter 492, Laws of 1993. As the waiver was not granted, RCW 41.05.197 requires that Medicare supplement insurance policies authorized under RCW 41.05.195 be made available to any resident of the state eligible for Medicare benefits.

Name of Agency Personnel Responsible for Drafting: Elin Meyer, Lacey, Washington, (360) 923-2801; **Implementation and Enforcement:** Gary Christenson, Lacey, Washington, (360) 923-2838.

Name of Proponent: Health Care Authority, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Defines eligibility requirements for state resident application for Medicare supplement coverage arranged by the Health Care Authority. Also defines timeframes that eligible residents may apply for coverage arranged by the Health Care Authority.

Proposal does not change existing rules.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not required. The rule will have a minor or negligible economic impact.

Hearing Location: 676 Woodland Square Loop S.E., Building B, 3rd Floor, Northwest Room, Lacey, WA, on February 23, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Nikki Woehl or Julie Dickinson by February 16, 1995, TDD (360) 923-2805, or (360) 923-2817.

Submit Written Comments to: Elin Meyer, Rules Coordinator, P.O. Box 42705, Olympia, WA 98504-2705, FAX (360) 923-2607, by February 16, 1995.

Date of Intended Adoption: February 23, 1995.

January 17, 1995

Elin Meyer
 Rules Coordinator

NEW SECTION

WAC 182-13-010 Purpose. The purpose of this chapter is to establish criteria for state residents for participation in Medicare supplement coverage available through the HCA.

NEW SECTION

WAC 182-13-020 Definitions. Unless otherwise specifically provided, the definitions contained in this section apply throughout this chapter.

(1) "HCA" means the Washington state health care authority.

(2) "Health plan," or "plan" means any individual or group: Policy, agreement, or other contract providing coverage for medical, surgical, hospital, or emergency care services, whether issued, or issued for delivery, in Washington or any other state. "Health Plan" or "plan" also includes self-insured coverage governed by the federal Employee Retirement Income Security Act, coverage through the Health Insurance Access Act as described in chapter 48.41 RCW, coverage through the Basic Health Plan as described in chapter 70.47 RCW, and coverage through the Medicaid program as described in Title 74 RCW. "Health plan" or "plan" does not mean or include: Hospital confinement indemnity coverage as described in WAC 284-50-345; disability income protection coverage as described in WAC 284-50-355; accident only coverage as described in WAC 284-50-360; specified disease and specified accident coverage as described in WAC 284-50-365; limited benefit health insurance coverage as described in WAC 284-50-370; long-term care benefits as described in chapter 48.84 RCW; or limited health care coverage such as dental only, vision only, or chiropractic only.

(3) "Lapse in coverage" means a period of time greater than ninety continuous days without coverage by a health plan.

(4) "Resident" means a person who demonstrates that he/she lives in the state of Washington at the time of application for, and issuance of coverage.

NEW SECTION

WAC 182-13-030 Eligibility. Residents are eligible to apply for Medicare supplement coverage arranged by the HCA when they are:

- (1) Eligible for Parts A and B of Medicare, and
- (2) Actually enrolled in both Parts A and B of Medicare not later than the effective date of Medicare supplement coverage.

NEW SECTION

WAC 182-13-040 Application for Medicare supplement coverage. Residents meeting eligibility requirements may apply for Medicare supplement coverage arranged by the HCA:

- (1) During the initial open enrollment period of January 1 through June 30, 1995, or
- (2) Within sixty days after becoming a resident, or
- (3) In the thirty day period before the resident becomes eligible for Medicare, or
- (4) Within sixty days of retirement, or

Chapter 182-13 WAC
STATE RESIDENT - MEDICARE SUPPLEMENT

(5) During any open enrollment period established by federal or state law, or

(6) During any open enrollment period established by the HCA subsequent to the initial open enrollment period provided that the applicant is replacing a health plan with no lapse in coverage.

PROPOSED

WSR 95-03-076
WITHDRAWAL OF PROPOSED RULES
INSURANCE COMMISSIONER'S
OFFICE

[Filed January 17, 1995, 4:17 p.m.]

On behalf of Insurance Commissioner Deborah Senn, and after review of the public comment concerning their adoption, proposed rules concerning long-term care insurance contracts, Insurance Commissioner Matter No. R 94-31, filed with the code reviser on November 23, 1994, and published as WSR 94-23-134, are hereby withdrawn in accordance with RCW 34.05.335 and WAC 1-21-060.

Greg Scully
Deputy Commissioner

WSR 95-03-078
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Filed January 17, 1995, 4:30 p.m.]

Original Notice.

Title of Rule: Thea Foss waterway design and development plan and master program for shoreline development, city of Tacoma, Washington.

Purpose: Amend WAC 173-19-3514.

Statutory Authority for Adoption: Chapter 90.58 RCW.
Statute Being Implemented: Chapter 90.58 RCW.

Summary: Rewrite of the master program for shoreline development, Tacoma and revisions to the Thea Foss waterway design and development plan.

Reasons Supporting Proposal: This amendment was requested by the city of Tacoma.

Name of Agency Personnel Responsible for Drafting: Linda Whitcher, SWRO 5751, 6th Avenue S.E., Lacey, WA, (360) 407-6523; Implementation and Enforcement: Carol Fleskes, 300 Desmond Drive, Lacey, WA, (360) 407-6602.

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 updates and revises the policies, goals and regulations of the master program for shoreline development, Tacoma and the Thea Foss waterway design and development plan. These amendments will allow better use, development and restoration of the land and water areas in shoreline jurisdiction.

Proposal Changes the Following Existing Rules: This amends WAC 173-19-3514.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Regulatory Fairness Act requires mitigating action and filing of a small

business economic impact statement when the 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 Tacoma does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: City Council Chambers, First Floor, 747 Market Street, Tacoma, WA 98402, on February 23, 1995, at 6:00 p.m.

Assistance for Persons with Disabilities: Contact Ecology receptionist by February 16, 1995, TDD (360) 407-6306, or (360) 407-6300.

Submit Written Comments to: Linda Whitcher, SWRO Ecology, P.O. Box 47775, Olympia, WA 98504-7775, FAX 407-6305, by March 3, 1995.

Date of Intended Adoption: March 17, 1995.

January 18, 1995

Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-44, filed 12/18/92, effective 1/18/93)

WAC 173-19-3514 Tacoma, city of. City of Tacoma master program approved April 5, 1977. Revision approved December 5, 1979. Revision approved March 17, 1981. Revision approved November 23, 1981. Revision approved April 6, 1982. Revision approved May 24, 1983. Revision approved March 1, 1984. Revision approved May 9, 1984. Revision approved April 18, 1985. Revision approved July 23, 1986. Revision approved September 16, 1987. Revision approved May 15, 1990. Revision approved December 15, 1992. Revision approved March 17, 1995.

WSR 95-03-081
PROPOSED RULES
DEPARTMENT OF ECOLOGY

[Filed January 17, 1995, 4:40 p.m.]

Original Notice.

Title of Rule: Chapter 173-06 WAC, Delegation of authority to department officials.

Purpose: To enable the director of ecology to formally delegate his/her legal authorities to officials within the department.

Statutory Authority for Adoption: RCW 43.21A.090.

Statute Being Implemented: Department of Ecology enabling legislation.

Summary: The proposed rule delegates the director's authority to act on behalf of the department when the person to whom delegation is made has been issued a specific letter of authority.

Reasons Supporting Proposal: The director needs to be able to authorize specific officials to act on behalf of the department in the administration of programs, and the issuance of orders and directives.

Name of Agency Personnel Responsible for Drafting: Carol Jolly, 407-6988.

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 rule updates the department's delegation of authority regulation which was last amended in 1990. It delegates signature authority for ecology actions to officials within the department; such delegation is effective when the person to whom delegation is made has been issued a letter from the director describing the specific types of action authorized. This rule will make the department's operations more efficient and timely.

Proposal Changes the Following Existing Rules: This rule repeals the existing chapter 173-06 WAC.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This rule deals only with internal administrative procedures and has no impacts on businesses.

Hearing Location: Department of Ecology, 300 Desmond Drive, Room R3A-07, Lacey, WA, on February 21, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Dianne Pastore by February 7, 1995, TDD (360) 407-6006, or (360) 407-7009.

Submit Written Comments to: Carol Jolly, P.O. Box 47600, Olympia, WA 98504-7600, FAX (360) 407-6989, by February 28, 1995.

Date of Intended Adoption: March 8, 1995.

January 17, 1995
Mary Riveland
Director

**CHAPTER 173-06 WAC
DELEGATION OF POWERS**

REPEALER

The following section of the Washington Administrative Code is repealed:

- WAC 173-06-010 Introduction
- WAC 173-06-020 Definitions
- WAC 173-06-030 Delegation
- WAC 173-06-040 Director's Powers

NEW SECTION

WAC 173-06-100 Introduction. Under the provisions of RCW 43.21A.090, the director of ecology may delegate the performance of his or her powers, duties, and functions, other than those relating to the adoption, amendment or rescission of rules and regulations, to employees of the department whenever that appears desirable to fulfill the purposes of the laws implemented by the department.

NEW SECTION

WAC 173-06-110 Definitions. As used in this chapter:
(1) "Department" shall mean the department of ecology;
(2) "Director" shall mean the person bearing such title created pursuant to RCW 43.21A.050. "Deputy Director" shall mean the person bearing such title created pursuant to RCW 43.21A.100.

NEW SECTION

WAC 173-06-120 Delegation. (1) The authority delegated hereby includes the authority to:

(a) Act on behalf of the department in the administration of programs and all other duties assigned the department; and

(b) Approve or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department. Delegated powers include, but are not limited to, the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The delegation established by this rule shall be effective when the person to whom delegation is made has been issued a letter from the director authorizing him or her to act for the department with respect to the specifics set forth in such letter.

(2) Whenever an individual is delegated the authority to approve or deny engineering reports, plans and specifications, or amendments thereto, such approval or denial must be based on engineering services provided by a registered professional engineer in accordance with current state law.

(3) Any person who has been properly designated to serve in a temporary or acting capacity for an employee who has been delegated authority under this rule shall have the same delegated authority as the individual permanently holding the position.

(4) In the absence of a person who has been delegated authority by the director, managers senior to that person may perform the delegated functions in accordance with their letters of authorization.

(5) In addition to the delegation provided for in the preceding subsections, the director may, under special circumstances, delegate in writing specific signature authority to any department employee.

(6) The authority delegated in this rule is limited to the power to act for the department in carrying out functions within the power of the department, and shall not be construed to authorize acts which are contrary to law or beyond the authority of the department.

NEW SECTION

WAC 173-06-130 Director's powers. The director may perform all powers, duties and functions within the authority of the department. The delegations authorized by this chapter shall not preclude the director from exercising any of the powers, duties and functions delegated. In the director's absence, the deputy director may act as director.

WSR 95-03-082

PROPOSED RULES

DEPARTMENT OF ECOLOGY

[Order 94-26—Filed January 17, 1995, 4:44 p.m.]

Supplemental Notice to WSR 94-17-126.

Title of Rule: City of Orting shoreline master program.

Purpose: To adopt a shoreline master program for the city of Orting by amending WAC 173-19-3507.

Statutory Authority for Adoption: Chapter 90.58 RCW.

Statute Being Implemented: Chapter 90.58 RCW.

Summary: Rewrite of the entire city of Orting shoreline master program.

Reasons Supporting Proposal: This amendment was requested by the city of Orting.

Name of Agency Personnel Responsible for Drafting: Linda Whitcher, SWRO, 5751 6th Avenue S.E., Lacey, WA, (360) 407-6523; Implementation and Enforcement: Carol Fleskes, Ecology, 300 Desmond Drive, Lacey, WA, (360) 407-6602.

Name of Proponent: Department of Ecology, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this shoreline master program is to provide an objective guide for regulating the use of shorelines within Orting; to establish a shoreline permit system for proposed substantial development, conditional uses and variances within shoreline jurisdiction; and to establish shoreline environments for all lands and water within shoreline jurisdiction of Orting.

Proposal Changes the Following Existing Rules: This amendment will replace the shoreline master program approved April 8, 1975. It contains new policies, goals regulation and environments.

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 Orting does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: Orting Multi-purpose Center, 202 Train Street, Library Building, Orting, WA 98360, on February 22, 1995, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Ecology receptionist by February 15, 1995, TDD (360) 407-6306, or (360) 407-6300.

Submit Written Comments to: Linda J. Whitcher, Ecology, SWRO, P.O. Box 47775, Olympia, WA 98504-7775, FAX 407-6305, by March 3, 1995.

Date of Intended Adoption: March 17, 1995.
January 17, 1995
Terry Husseman
Deputy Director

AMENDATORY SECTION (Amending Order DE 79-34, filed 1/30/80)

WAC 173-19-3507 Orting, ((town)) city of. Town of Orting master program approved April 8, 1975. Revision approved March 17, 1995.

**WSR 95-03-084
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed January 17, 1995, 4:51 p.m.]**

Original Notice.

Title of Rule: WAC 388-513-1300 Applicability of alternate living and institutional rules.

Purpose: This new rule, as requested by Evergreen Legal Services, will define which sections of chapter 388-513 WAC apply to alternate living situations, and which sections apply to clients institutionalized in a nursing facility.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Defines which sections of chapter 388-513 WAC apply to alternate living situations and which apply to clients institutionalized in a nursing facility.

Reasons Supporting Proposal: This proposed new rule was requested by Evergreen Legal Services.

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 proposed rule affects only eligibility process. It does not have an economic impact on any business and does not regulate a business.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on February 21, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Deaf and Hard of Hearing Services by January 7, 1995, TDD (360) 753-0699, or SCAN 234-0699.

Submit Written Comments to: Dewey Brock, Chief, Office of Vendor Services, Mailstop 45811, Department of Social and Health Services, 14th Avenue and Jefferson Street, Olympia, Washington 98504, Please Identify WAC Numbers, FAX (360) 586-8487, by February 14, 1995.

Date of Intended Adoption: February 22, 1995.
January 17, 1995
Dewey Brock, Chief
Office of Vendor Services

NEW SECTION

WAC 388-513-1300 Applicability of alternate living and institutional rules. (1) The department shall determine sections WAC 388-513-1305 and 388-513-1310 of this chapter apply to persons in alternate living situations.

(2) The department shall determine all sections other than WAC 388-513-1305 of this chapter apply to institutionalized persons as described under WAC 388-513-1365 (1)(f).

PROPOSED

WSR 95-03-088
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
 [Filed January 18, 1995, 9:33 a.m.]

Original Notice.

Title of Rule: Commercial fishing rules.

Purpose: Establish buy-back program.

Statutory Authority for Adoption: RCW 75.08.080.

Statute Being Implemented: RCW 75.08.080.

Summary: Establishes 1995 salmon license buy-back program funded by northwest emergency assistance plan.

Reasons Supporting Proposal: Needed to distribute federal funding.

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

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The federal government has established a northwest emergency assistance plan, and has allocated four million dollars to purchase licenses of salmon fishers who have been affected by Columbia River salmon closures and the Endangered Species Act. The department has been chosen to administer this program. The rules allocate the funds, provide eligibility criteria, and establish the process by which application is made, offers are ranked, and offers are accepted. The anticipated effects are purchase of ranked licenses.

Proposal Changes the Following Existing Rules: The current buy-back rules, adopted under state financing with different eligibility criteria, are repealed, and a new set of rules replace the old program.

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: Rules Coordinator, Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98504, phone (206) 902-2930, or FAX (206) 902-2942.

Hearing Location: South Bend Community Center, South Bend, Washington, on February 21, 1995, at 7:00 p.m.

Assistance for Persons with Disabilities: Contact Evan Jacoby by February 14, 1995, TDD (206) 902-2207, or (206) 902-2930.

Submit Written Comments to: Evan Jacoby, 600 North Capitol Way, Olympia, WA 98504, FAX (206) 902-2942, by February 20, 1995.

Date of Intended Adoption: February 28, 1995.

January 18, 1995

Edward P. Manary
for Robert Turner
Director

NEW SECTION

WAC 220-95-013 1995 Salmon disaster relief license buy-back program established—Fund allocation—Expiration. (1) The National Marine Fisheries Service has designated the department as the administrating agency for distribution of Northwest Emergency Assistance Plan funds to buy back salmon licenses from license holders who are affected by reductions in salmon fishing needed to conserve Columbia River threatened and endangered salmon stocks. The Northwest Emergency Assistance Plan only allows license purchases from fisheries that are dependent on chinook and coho salmon and are affected by the Endangered Species Act. The department hereby designates this program as the 1995 salmon disaster relief license buy-back program (program).

(2) The rules provided for in this chapter implement the provisions of the Northwest Emergency Assistance Plan as published in the *Federal Register*, and appeals as to which fishery license holders may apply for relief or the maximum level of monetary relief offered are to be made to the National Marine Fisheries Service.

(3) The department initially allocates the available federal funding for the program to the following categories in the following amounts:

(a) Salmon troll licenses and salmon delivery licenses	\$1,700,000.00
(b) Willapa Harbor-Columbia River and Grays Harbor-Columbia River gill net licenses	\$1,700,000.00
(c) Salmon charter licenses	\$ 300,000.00
(d) Program administration	\$ 300,000.00

Program administration funds that will not be used will be reallocated to license purchases. If funds remain available in any license category after the initial offer period, those funds will be reallocated to license purchases.

(4) The program expires March 31, 1996, or upon the distribution of all available funds, whichever occurs first.

NEW SECTION

WAC 220-95-018 Program eligibility. Only persons meeting the following criteria are eligible to participate in the program.

(1) The person participated in the coastal, Columbia River, Grays Harbor or Willapa Bay commercial salmon fisheries and had income derived from one of those fisheries in at least one year during the period 1986 through 1990 and has not participated nor will participate in a Northwest Emergency Assistance Plan jobs program.

(2) The person possessed or was eligible to possess one of the following Washington state salmon fishery licenses in 1994:

- Salmon troll license (RCW 75.28.110 (1)(f));
- Salmon delivery license (RCW 75.28.113);
- Salmon gill net—Grays Harbor-Columbia River (RCW 75.28.110 (1)(a));
- Salmon gill net—Willapa Bay-Columbia River (RCW 75.28.110 (1)(c));
- Salmon charter (RCW 75.28.095 (1)(b)).

(3) The person incurred an uninsured loss computed under the federal plan requirements as follows: The maximum amount of uninsured loss under the program is the difference between the highest gross income derived from designated salmon fishing activity (including incidental catch provided that some salmon are included within the catch) during any calendar year 1986 through 1990 (the base year), less the sum of the least amount of gross income derived from salmon fishing activities during any calendar year from 1991 through 1994, plus any federal unemployment compensation received during that year, plus any federally funded training received during that year (the comparison year). The maximum amount payable under the program is 2.25 times the uninsured loss, but not to exceed \$100,000.00 to any individual for all payments received from the program. If funds remain after the initial offer and acceptance, a second offer period will be established, but the maximum amount payable under the program will be 1.5 times the uninsured loss. For purposes of calculating income, the license holder must and may only use income from salmon fisheries in the coastal waters of Washington, Oregon, and California, the waters of Grays Harbor and Willapa Bay, and the waters of the Columbia River.

NEW SECTION

WAC 220-95-022 Program application. (1) A license holder may make only one offer per license during an offer period.

(2) An offer to sell a license must be made on department forms and must be received by the department's licensing division during the period 8:30 a.m., March 15 through 4:30 p.m., April 28, 1995. In the event of a tie offer the first offer received will be accepted.

(3) Income used in the calculation of offers that are accepted may not be used in the calculation of any other offer.

(4) The license holder may offer the license for any amount up to the maximum allowable under the program.

(5) An offer is not made unless a complete offer is received by the department. In order for an offer to be complete, the following must be received:

(a) A complete offer sheet, showing:

(i) The applicant's name, Social Security number, mailing address during the offer period and telephone number;

(ii) The license type and license number that is being offered;

(iii) The offer amount;

(iv) The base year income (1986-1990);

(v) The comparison year income (1991-1994, including federal unemployment funds and the amount of any federally funded training received);

(vi) The amount of uninsured loss.

(b) Supporting documents.

(i) For salmon troll, salmon delivery and gill net license fishing activity, the only acceptable supporting documents are official state fish receiving tickets, official state fish landing receipts, or computer generated landing lists that have been certified by a state agency or the Pacific States Fisheries Management Council to be true and correct copies.

(ii) For salmon charter license fishing activity, the only acceptable supporting documents are trip tickets identifying the species targeted, the number of anglers, and the date of the trip.

(c) Copies of Internal Revenue Service returns for the base and comparison years.

(d) A signed permission form that allows the department to receive copies of the applicant's Internal Revenue Service returns for the base and comparison years, and to receive landing information from the Pacific States Fisheries Management Council, and the states of Oregon and California.

(e) A signed statement certifying that all information provided is true and correct.

NEW SECTION

WAC 220-95-027 Ranking of offers. (1) Incomplete offers will be returned.

(2) Complete offers will be verified prior to ranking.

(3) Ranking of complete offers will occur at the close of the offer period and offers will be ranked within the following three categories:

(a) Salmon troll and salmon delivery licenses.

(b) Willapa Bay-Columbia River and Grays Harbor-Columbia River gill net licenses.

(c) Salmon charter licenses.

(4) Ranking will be established in ascending order from the lowest offer to the highest offer in each license category.

NEW SECTION

WAC 220-95-032 Offer acceptance—Acknowledgment—Retirement of licenses. (1) Offers will be accepted in rank order, beginning with the lowest offer.

(2) The department will notify license holders that it has accepted a license offer by sending an acceptance and acknowledgment to the license holder by registered mail to the address provided on the offer sheet. The acknowledgment must be signed and returned to the department and must be received by the license division at or before 4:30 p.m. on May 31, 1995. Any acknowledgment received after that date is void and the acceptance is withdrawn.

(3) If the license being offered has been issued for 1995, the department will tender the amount of the offer upon return of the license card.

(4) If the license being offered has not been issued for 1995, the department will tender the amount of the offer upon receipt of a valid acknowledgment.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 220-95-011	Application to sell.
WAC 220-95-016	Ranking of applications.
WAC 220-95-021	Program options.
WAC 220-95-026	Surveys—Vessels—License—Permit values.
WAC 220-95-031	Use restrictions and penalties.

WSR 95-03-089
PROPOSED RULES
WASHINGTON STATE PATROL
 [Filed January 18, 1995, 10:40 a.m.]

Supplemental Notice to WSR 94-20-098.

Title of Rule: Use of tire chains or other traction devices for commercial motor vehicles.

Purpose: To simplify chaining requirements for commercial motor vehicles traveling over mountain passes in inclement weather. Lessen requirements for certain commercial vehicles.

Statutory Authority for Adoption: RCW 46.37.005.

Statute Being Implemented: RCW 46.37.420.

Summary: Clarifies chaining requirements, adds specific reference to automobile transporters.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Lt. Lonnie Brackins, 515 15th Avenue, Olympia, WA, (206) 753-2754.

Name of Proponent: [Washington State Patrol], governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Adds specific reference to chaining requirements for automobile transporters. Clarifies chaining requirements for commercial motor vehicles. Lessens requirements for traction devices on certain commercial motor vehicles.

Proposal Changes the Following Existing Rules: Clarifies chaining requirements for certain vehicle combinations. Adds specific reference to chaining requirements for automobile transporters.

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: Lt. Lonnie Brackins, Safety and Technical Section, P.O. Box 42614, Olympia, WA 98504-2614, phone (206) 753-2754, or FAX (206) 586-8233.

Hearing Location: Washington State Patrol, Fleet Conference Room, 4242 Martin Way, Olympia, WA, on February 22, 1995, at 1:30.

Assistance for Persons with Disabilities: Contact Ms. Jan Bart by February 15, 1995, (206) 753-4453.

Submit Written Comments to: Lt. Lonnie Brackins, FAX (206) 586-8233, by February 15, 1995.

Date of Intended Adoption: March 1, 1995.

January 13, 1995

Roger W. Bruett
 Chief

AMENDATORY SECTION (Amending WSR 94-08-069, filed 4/4/94, effective 5/5/94)

WAC 204-24-050 Use of tire chains or other traction devices. (1) Vehicles under 10,000 pounds gross vehicle weight.

(a) When traffic control signs marked "approved traction tires required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires at least one of the traction devices meeting the requirements of WAC 204-24-040.

(b) When traffic control signs marked "chains required" are posted by the department of transportation it shall be unlawful for any vehicle to enter the controlled area without having mounted on its drive tires, tire chains meeting the standards in chapter 204-22 WAC.

(i) Exception for all wheel drive vehicles. When "chains required" signs are posted, all-wheel drive vehicles shall be exempt from the chain requirement when all wheels are in gear and are equipped with approved traction devices as specified in WAC 204-24-040 provided that tire chains for at least one set of drive tires are carried in the vehicle.

(2) Vehicles or combinations of vehicles over 10,000 pounds gross vehicle weight.

When traffic control signs marked "approved traction tires required" or "chains required" are posted by the department of transportation it shall be unlawful for any vehicle or combination of vehicles to enter the controlled area without having mounted on its tires, tire chains as follows: *Provided*, That highway maintenance vehicles operated by the department of transportation for the purpose of snow removal and its ancillary functions are exempt from the following requirements if such vehicle has sanding capability in front of the drive tires.

(a) ~~((Single vehicles,))~~ Vehicles or vehicle combinations with two to four axles including but not limited to trucks, truck-tractors, buses and school buses: For vehicles with a single drive axle, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, ~~((all tires on))~~ one tire on each side of one of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers; one tire on the last axle of the last trailer or semi-trailer, shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(b) ~~((Two vehicle combinations))~~ Automobile transporters. Automobile transporters are any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) highway vehicles. For vehicles with single drive axles, one tire on each side of the drive axle shall be chained. For vehicles with dual drive axles, one tire on each side of each of the drive axles shall be chained. For vehicle combinations including trailers or semi-trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

(c) Vehicle combinations with five axles consisting of a truck tractor with dual drive axles and a tandem axled semi-trailer; all tires on one drive axle may be chained or one tire on each side of each of the drive axles may be chained. Chains must be applied to a minimum of four tires on the drive axles. On the tandem axle semi-trailer, the chained tire may be on either of the last two axles.

(d) Vehicle combinations with five axles, ~~((including but not limited to))~~ consisting of a truck and trailer, or truck tractor and semi-trailer with a single drive axle, or truck tractor, semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles, all tires on one of the drive axles shall be chained. ~~((In addition, one tire on each side of the additional drive axle shall be chained.))~~ For vehicle~~((s-with))~~ combinations including trailers or semi-

trailers, one tire on the last axle of the last trailer or semi-trailer shall be chained. ~~((On single axle semi-trailers, one tire on the axle shall be chained.))~~ If the trailer or semi-trailer has tandem rear axles, the chained tire may be on either of the last two axles.

~~((e) Three-)) (e) Vehicle combinations with six or more axles, including but not limited to truck and trailer or truck tractor(,;) and semi-trailer or truck tractor semi-trailer and full trailer: For vehicles with a single drive axle, all tires on the drive axle shall be chained. For vehicles with dual drive axles where traffic control signs marked "approved traction tires required" are posted, all tires on one of the drive axles shall be chained. For vehicles with dual drive axles where traffic control signs marked "chains required" are posted, all tires on one of the drive axles shall be chained. In addition, one tire on each side of the additional drive axle shall be chained. For vehicle~~((s-with))~~ combinations including trailers or semi-trailers, one tire on the last axle ~~((of the last trailer))~~ shall be chained. ~~((On single axle semi-trailers, one tire on the axle shall be chained. If the trailer has tandem rear axles))~~ For vehicles with tandem axle trailers or semi-trailers, the chained ((wheel)) tire may be on either of the last two axles.~~

~~((d)) (f) All vehicles over 10,000 pounds gross vehicle weight shall carry a minimum of two extra chains for use in the event that road conditions require the use of more chains or in the event that chains in use are broken or otherwise made useless.~~

~~((e)) (g) Approved chains for vehicles over 10,000 pounds gross vehicle weight shall have at least two side chains to which are attached sufficient cross chains of hardened metal so that at least one cross chain is in contact with the road surface at all times. Plastic chains shall not be allowed. The state patrol may approve other devices as chains if the devices are equivalent to regular chains in performance.~~

~~((f)) (h) On the following routes all vehicles and combinations of vehicles over 10,000 pounds shall carry sufficient tire chains to meet the requirements of this chapter from November 1 to April 1 of each year or at other times when chains are required for such vehicles:~~

- ~~(i) I-90 - between North Bend (MP 32) and Ellensburg (MP 101).~~
- ~~(ii) SR-97 - between (MP 145) and Junction SR-2.~~
- ~~(iii) SR-2 - between Dryden (MP 108) and Index (MP 36).~~
- ~~(iv) SR-12 - between Packwood (MP 135) and Naches (MP 187).~~
- ~~(v) SR-97 - between the junction of SR-14 (MP 4) Columbia River and Toppenish (MP 59).~~
- ~~(vi) SR-410 - from Enumclaw to Naches.~~
- ~~(vii) SR-20 - between Tonasket (MP 262) and Kettle Falls (MP 342).~~
- ~~(viii) SR-155 - between Omak (MP 79) and Nespelem (MP 45).~~
- ~~(ix) SR-970 - between (MP 0) and (MP 10).~~

Vehicles making local deliveries as indicated on bills of lading and not crossing the mountain pass are exempt from this requirement if operating outside of a chain required area.

(3) The Washington state department of transportation or Washington state patrol may prohibit any vehicle from entering a chain/approved traction tire control area when it

is determined that the vehicle will experience difficulty in safely traveling the area.

WSR 95-03-091
PROPOSED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS
 [Filed January 18, 1995, 10:54 a.m.]

Original Notice.

Title of Rule: Examination and supervision charges for credit unions.

Purpose: To increase the rate of charges paid by credit unions to the department and to change the asset charge assessment dates; to provide authority for the director to accelerate asset charge assessments.

Statutory Authority for Adoption: RCW 31.12.535 and [31.12].545.

Statute Being Implemented: RCW 31.12.545.

Summary: The proposed rule increases the rate of charges paid by credit unions by 6.21% effective March 31, 1995; provides for scheduled rate increases on July 1, of each year beginning July 1, 1995, in the amount of the then current fiscal growth factor set by the state; revises the asset charge assessment dates to March 31 and September 30, payable within fifteen days after the respective assessment date; and authorizes the director to accelerate the asset charge assessments if the credit unions examinations fund falls below one month's budget allotment.

Reasons Supporting Proposal: **Increase in rate of charges**, in the last year, the credit union division incurred substantial unanticipated and extraordinary expenses. Some of these, such as the cost of defending the division (and former personnel) against tort claims, will continue to be incurred in the future as the litigation progresses. In order to pay its expenses and create a reserve for the payment of litigation expenses, the division must increase its revenues by proposing an increase in the rate of charges paid by credit unions to the department.

Initiative 601 limits the ability of the division to increase the rate of its charges in a fiscal year (July 1 - June 30) above the "fiscal growth factor" for the year without legislative approval. In order to raise sufficient revenue to pay for expenses and stay within the Initiative 601 limits, it will be necessary for the division to increase the rate of its charges in an amount up to the fiscal growth factor each fiscal year for the foreseeable future.

The proposed rule provides for a 6.21% increase in the rate of charges effective March 31, 1995. It also provides for scheduled increases in the rate of charges on each July 1, beginning July 1, 1995, in the amount of the then current fiscal growth factor set by the state. Consequently, there will be two rate increases in calendar 1995, on March 31 and July 1. Thereafter, there will be only one rate increase per year on July 1.

The estimated increases to take effect on July 1, 1995, and July 1, 1996, based on estimates of the fiscal growth factor for the respective fiscal years, is 5.13% and 4.44%. These increases will continue until the director determines that the credit unions examination fund is sufficient to meet

its obligations and has adequate reserves to meet its extraordinary obligations.

Change in asset charge assessment and payment dates, the current asset charge assessments/payment dates, June 30/July 15 and December 31/January 15, create accounting and fiscal problems for the division because they overlap fiscal year end (June 30) and calendar year end. In order to correct the problem, the proposed rule changes these dates to March 31/April 15 and September 30/October 15. Consequently, the proposed rule will require credit unions to pay three asset charge assessments during calendar 1995, as follows:

December 31, 1994, assessment (at the current level), paid January 15, 1995. March 31, 1995, assessment (with a 6.21% increase), payable by April 15, 1995. September 30, 1995, assessment (with an estimated 5.13% increase over the March 31, 1995, level), payable by October 15, 1995.

Thereafter, only two asset charge assessments will be paid per calendar year, subject to acceleration by the director as described in the following paragraph.

Authority to accelerate asset charge assessments, the proposed rule also authorizes the director to accelerate an asset charge assessment date, if the credit unions examinations fund falls below one month's budget allotment. This provision is necessary to smooth out the fund's cash flow peaks and valleys. A similar provision exists in regard to asset charges paid by banks into the bank examination fund.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: A. Pulitano, Olympia, (360) 902-8717.

Name of Proponent: Division of Credit Unions, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: See Summary and Reasons Supporting Proposal above.

Proposal Changes the Following Existing Rules: The proposed rule amends WAC 419-18-020, 419-18-030, 419-18-040, 419-18-050, 419-18-060, and 419-18-070, and adds two new sections to chapter 419-18 WAC, to effect the changes described in the response to Summary and Reasons Supporting Proposal above.

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: Division of Credit Unions, P.O. Box 41204, Olympia, WA 98504-1204, phone (360) 902-8701, or FAX (360) 753-6070.

Hearing Location: General Administration Building Auditorium, 210 West 11th Avenue, First Floor, Olympia, WA 98504, on February 21, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact Chris Martin by February 7, 1995, TDD (360) 664-8126, or (360) 902-8718.

Submit Written Comments to: Division of Credit Unions, P.O. Box 41204, Olympia, 98504-1204, FAX (360) 753-6070, by February 21, 1995.

Date of Intended Adoption: February 27, 1995.

January 18, 1995

John L. Bley

Director

Chapter 419-18 WAC EXAMINATION AND SUPERVISION ((FEES)) CHARGES FOR CREDIT UNIONS

AMENDATORY SECTION (Amending Order 83-4, filed 9/26/83)

WAC 419-18-020 Collection of examination and supervision costs—Collection method. The requirement of RCW ((31.12.320)) 31.12.545 that the ((supervisor)) director collect from each credit union the actual costs of examinations and supervision shall be met in accordance with the procedures established in this chapter. The ((fee)) charges for this purpose shall consist of ((three elements)): (1) An hourly charge for ((the number of hours spent by division personnel in)) conducting an examination of the credit union, (2) a semiannual asset charge, ((and)) (3) an hourly charge for ((the number of hours of extraordinary or special services)) legal assistance, (4) an hourly charge for supervisory review of examinations, and (5) an hourly charge for special examinations. Charges must be paid promptly when due.

AMENDATORY SECTION (Amending WSR 91-06-062, filed 3/1/91, effective 4/1/91)

WAC 419-18-030 Hourly charge for examinations. (1) The hourly charge for hours spent by personnel of the credit union division ((of savings and loan)) in conducting examinations shall be assessed as follows:

((4)) (a) For division personnel classified as ((savings and loan)) analyst, (((\$40.00)) \$42.48 per hour;

((2)) (b) For division personnel classified as ((savings and loan)) senior analyst, (((\$45.00)) \$47.79 per hour; and

((3)) (c) For division personnel classified as review analyst or above, (((\$50.00)) \$53.10 per hour.

(2) In addition, the ((supervisor)) director may charge the actual cost of examinations performed under personal service contracts by third parties.

(3) The ((supervisor)) director shall submit a statement for the ((forgoing (foregoing))) charges following the completion of any applicable examination, and the charges ((shall)) must be paid not later than thirty days after submission of ((such)) the statement.

(4) The rate of the charges set forth in subsection (1) of this section is subject to increase as provided in WAC 419-18-080.

AMENDATORY SECTION (Amending WSR 91-06-062, filed 3/1/91, effective 4/1/91)

WAC 419-18-040 Semiannual asset charge. (1) The semiannual asset charge will be assessed at a rate of ((three)) 3.1863 cents per thousand dollars of total assets (defined below), computed on total assets as of ((June 30)) March 31 and ((December 31)) September 30 of each calendar year, and payable no later than ((July 15 and January 15 next following the respective assessment dates)) fifteen days after the respective date. ((Those)) Credit unions ((the)) with total assets of ((which are)) less than two hundred thousand dollars as of a particular assessment date ((shall)) are not ((be)) required to pay ((an)) the asset charge for ((the

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~~semiannual period immediately preceding such~~) that assessment date. ~~((Assets included in total assets include))~~

(2) For the purpose of this section, "total assets" includes all assets held by a Washington chartered credit union whether held within this state or a branch in another state and assets of foreign credit unions held through branches within the state of Washington ~~((provided that the supervisor shall have the authority to))~~. However, the director may waive the assessment of asset ~~((fees))~~ charges on assets held by Washington chartered credit unions ~~((in))~~ through branches within other states based upon reciprocal agreements with the foreign state's regulatory authority. The assessment of asset charges set forth in this section is subject to acceleration as provided in WAC 419-18-045.

(3) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.

NEW SECTION

WAC 419-18-045 Credit unions examination fund—Minimum cash balance—Acceleration of semiannual asset charge. (1) The director shall use best efforts to maintain a minimum cash balance in the credit unions examination fund of at least one month's allotment (defined below). However, if the balance drops below this figure, the director may declare the next semiannual asset charge due and payable within thirty days after the declaration. The charge will be based on the then most current report of condition of each credit union. The director will bill each credit union for the accelerated asset charge; payment is in lieu of the next regularly scheduled semiannual asset charge.

(2) For the purpose of this section, "one month's allotment" means the quotient resulting from the division of the amount of the then current biennial budget (of the credit union division) by twenty-four.

AMENDATORY SECTION (Amending WSR 91-06-062, filed 3/1/91, effective 4/1/91)

WAC 419-18-050 Hourly charge for legal assistance.

(1) The hourly charge for ~~((consultation involving))~~ legal assistance rendered by an assistant attorney general shall be assessed at the rate of ~~(((\$60.00))~~ \$63.72 per hour. Legal assistance ~~((shall))~~ includes, but is not ~~((be))~~ limited to, legal assistance rendered in connection with supervisory committee meetings and board meetings ~~((requiring legal assistance;))~~; preparation and enforcement of removal actions, involuntary liquidations, declarations of insolvency, cease and desist orders, and other agreements or actions ~~((requiring legal advice; and to))~~; preparation for administrative hearings; and preparation of memorandum opinions ~~((which relate to a specific credit union))~~ and legal opinions.

(2) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.

AMENDATORY SECTION (Amending WSR 91-06-062, filed 3/1/91, effective 4/1/91)

WAC 419-18-060 Hourly charge for supervisory review of examinations. (1) Upon completion of each examination, the analyst's report shall be reviewed and an examination letter prepared by administrative personnel. The hourly charge for the review and preparation of the examina-

tion letter ~~((shall))~~ will be assessed at the rate of ~~(((\$50.00))~~ \$53.10 per hour.

(2) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.

AMENDATORY SECTION (Amending WSR 91-06-062, filed 3/1/91, effective 4/1/91)

WAC 419-18-070 Hourly charge for special examinations. (1) Special examinations ~~((shall))~~ will be assessed at the rate of ~~(((\$50.00))~~ \$53.10 per hour, per examiner. Special examinations ~~((shall))~~ include, but are not ~~((be))~~ limited to, electronic data processing examinations, special investigations, special investigations in the course of processing applications, special examinations involving the division's staff supervisory personnel, and other special examinations and reviews the ~~((supervisor))~~ director deems necessary.

(2) The rate of the charges set forth in this section is subject to increase as provided in WAC 419-18-080.

NEW SECTION

WAC 419-18-080 Phase-in of increases in rate of charges. (1) The rate of the charges set forth in WAC 419-18-030, 419-18-040, 419-18-050, 419-18-060 and 419-18-070 will increase on July 1 of each year, beginning July 1, 1995, by the same percentage as the fiscal growth factor (defined below) for the then current fiscal year.

The increases will continue until the director determines that the credit unions examination fund is sufficient to meet its obligations and has established adequate reserves to meet its extraordinary obligations.

(2) The director will notify each credit union by mail of each scheduled rate increase at least one month before the increase takes effect.

(3) For the purposes of this section, "fiscal growth factor" means the fiscal growth factor as defined in RCW 43.135.025 and established by the Washington state office of financial management.

**WSR 95-03-100
PROPOSED RULES
LOTTERY COMMISSION**
(Filed January 18, 1995, 11:41 a.m.)

Original Notice.

Title of Rule: WAC 315-11A-140 Instant Game Number 140 ("Joker's Wild"); and 315-11A-141 Instant Game Number 141 ("Go Bananas").

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 140 ("Joker's Wild") and 141 ("Go Bananas").

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Jeff Burkhardt, Rules Coordinator, Olympia, 586-6583;

PROPOSED

Implementation and Enforcement: Evelyn P. Yenson, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-140 and 315-11A-141, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The lottery has considered whether these rules are subject to the Regulatory Fairness Act, chapter 19.85 RCW, and has determined that they are not for the following reasons: The rules have no economic impact on business' cost of equipment, supplies, labor or administrative costs. The rules are designed to establish rules and procedures for the playing of instant lottery games; and the rules will have a negligible impact, if any, on business because they are interpretive. They have been promulgated for the purpose of stating policy, procedure and practice and do not include requirements for forms, fees, appearances or other actions by business.

Hearing Location: Washington State Lottery, 814 Fourth Avenue, Olympia, WA 98504, on March 3, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jeff Burkhardt by February 21, 1995, (360) 586-6583.

Submit Written Comments to: Jeff Burkhardt, Lottery, FAX (360) 753-2602, by March 2, 1995.

Date of Intended Adoption: March 3, 1995.



January 18, 1995
Evelyn P. Yenson
Director


NEW SECTION

WAC 315-11A-140 Instant Game Number 140 ("Joker's Wild"). (1) Definitions for Instant Game Number 140.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the five play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 140, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
	SVN
	EGT

	NIN
	TEN
	JCK
	QUE
	KNG
	JKR

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$12.00," "\$20.00," "\$40.00," and "\$8,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 140, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 12.00	TLV DOL
\$ 20.00	TWY DOL
\$ 40.00	\$FORTY\$
\$ 8,000	EGTTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14000001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 140 constitute the "pack number" which starts at 14000001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 140, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
THR	\$ 3.00 (\$1, \$1 AND \$1; \$2 AND \$1)
FIV	\$ 5.00 (\$2, \$1, \$1 AND \$1; \$2, \$2 AND \$1)

TLV	\$ 12.00	(\$3, \$3, \$3 AND \$3; \$4, \$4 AND \$4)
TTF	\$ 24.00	(\$6, \$6, \$6 AND \$6; \$12 AND \$12)
ETY	\$ 80.00	(\$20, \$20, \$20 AND \$20; \$40 AND \$40)

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

PROPOSED

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 140.**

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 140, the " " play symbol with the caption "JKR" shall always be a winning play symbol, and the bearer of a ticket which has a " " play symbol with the caption "JKR" shall be entitled to the prize shown below the " " play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 140 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 140; and/or

(ii) Vary the number of tickets sold in Instant Game Number 140 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 140.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 140 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning card" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-141 Instant Game Number 141 ("Go Bananas"). (1) Definitions for Instant Game Number 141.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the seven play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the seven play spots shall be labeled "winning numbers."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form, of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 141, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
	BNP

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$4.00," "\$6.00," "\$10.00," "\$18.00," "\$20.00," and "\$4,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning numbers."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the

prize symbol. For Instant Game Number 141, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 4.00	FOR DOL
\$ 6.00	SIX DOL
\$ 10.00	TEN DOL
\$ 18.00	EGN DOL
\$ 20.00	TWY DOL
\$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14100001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 141 constitute the "pack number" which starts at 14100001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 141, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$2)
TEN	\$ 10.00 (\$2, \$2, \$2, \$2 AND \$2; \$4, \$2, \$2 AND \$2)
FTN	\$ 15.00 (\$3, \$3, \$3, \$3 AND \$3)
TRY	\$ 30.00 (\$6, \$6, \$6, \$6 AND \$6; \$10, \$10 AND \$10)
NTY	\$ 90.00 (\$18, \$18, \$18, \$18 AND \$18; \$20, \$20, \$20, \$20 AND \$10)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 141.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbols labeled "winning numbers," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 141, the " " play symbol with the caption "BNP" shall always be a winning play

symbol, and the bearer of a ticket which has a " " play symbol with the caption "BNP" shall be entitled to the prize shown below the " " play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 141 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 141; and/or

(ii) Vary the number of tickets sold in Instant Game Number 141 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 141.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 141 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the seven play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning numbers" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

PROPOSED

WSR 95-03-101
PROPOSED RULES
HEALTH SERVICES COMMISSION
[Filed January 18, 1995, 11:49 a.m.]

Original Notice.

Title of Rule: Provider selection, termination and dispute resolution.

Purpose: The purpose of this amendment to WAC 245-04-090 through 245-04-115 is to change the effective date from March 1, 1995, to July 1, 1995.

Statutory Authority for Adoption: RCW 48.43.170 (2)(4), 43.72.100 (6)(14).

Statute Being Implemented: RCW 48.43.170 (2)(4), 43.72.100 (6)(14).

Summary: The purpose of this amendment is to change the effective date from March 1, 1995, to July 1, 1995.

Reasons Supporting Proposal: These rules apply to providers of services included in the uniform benefit package. The benefit package has been submitted to the legislature and may not be final until the legislative session concludes. The commission is also considering an additional revision to these rules to assure that providers who are essential for access for specific populations are not unfairly excluded from plans' networks. The commission feels it would be desirable for this rule-making process to be concluded before the provider, selection and dispute resolution rules become effective.

Name of Agency Personnel Responsible for Drafting: Nancy Long, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (360) 407-0154; Implementation and Enforcement: George Schneider, 605 Woodland Square Loop S.E., Lacey, WA 98504-1185, (360) 407-0045.

Name of Proponent: Washington Health Services 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 effective date of WAC 245-04-090 through 245-04-115 to July 1, 1995.

Proposal Changes the Following Existing Rules: It changes the effective date from March 1, 1995, to July 1, 1995.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This amendment does not affect the substantive impact of WAC 245-04-090 et seq.; it only changes the effective date.

Hearing Location: Aging and Adult Services, 600 Woodland Loop S.E., Building A, on February 21, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Terry Taylor, 407-0153 by February 17, 1995, (360) 407-0152.

Submit Written Comments to: Nancy Long, Health Services Commission, P.O. Box 41185, Olympia, WA 98504, FAX (360) 407-0069, by February 15, 1995.

Date of Intended Adoption: February 24, 1995.

January 17, 1995
Bernadene Dochnahl
Commission Chair

PROPOSED

WSR 95-01-029
PERMANENT RULES
OFFICE OF MARINE SAFETY

[Filed December 9, 1994, 3:30 p.m., effective June 7, 1995]

Date of Adoption: December 9, 1994.

Purpose: The rules will establish best achievable protection standards for approval of tank vessel oil spill prevention plans required under RCW 88.46.040.

Citation of Existing Rules Affected by this Order:

Repealing chapter 317-20 WAC.

Statutory Authority for Adoption: RCW 43.21I.030, 88.46.040.

Pursuant to notice filed as WSR 94-17-169 on August 24, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 317-21-060, definition of "restricted visibility" is changed to conform with the International Rules of the Road. The terms "restricted waterway" and "underway" are replaced by "coastal" and "inland" to better define applicable areas for tank barge standards; and WAC 317-21-100, different forms of document control will be allowed to give owners and operators more flexibility.

The following WAC cites refer to the adopted version. The adopted version was renumbered for clarity and corresponding cites to the proposed version appear in brackets. WAC 317-21-200(3) and 317-21-205(2) [200 (1)(c) and 200(b)], additions, deletions, corrections to a vessel's voyage plan are expressly allowed; WAC 317-21-210(1) [200 (3)(1)], greater flexibility in the management and set-up of standby generators are permitted; WAC 317-21-210(2) [200 (3)(b)], different methods of monitoring steering gear flats are allowed to give owners and operators more flexibility; WAC 317-21-215 [200(4)], prearrival checks and inspections that only apply to motor vessels are designated; WAC 317-21-220 (1)(b), only maintenance personnel who actually sail on tankers are required to undergo orientation training; WAC 317-21-235 [220(2)], alcohol testing and reporting is made more consistent with federal alcohol and drug testing requirements. Alcohol test equipment is not specified. Preemployment alcohol tests will not count toward the percentage of positive alcohol tests that determines eligibility for the random testing reduction incentive; WAC 317-21-240 [220(3)], performance appraisals are not required for crew members who do not serve on board vessels covered by a prevention plan for at least six months; WAC 317-21-300(2) [210 (1)(b)], security rounds for tank barge navigation light checks are only required when safe to do so; WAC 317-21-305(2) [210 (2)(b)], evaluation of bar crossing conditions are based on the master's judgment; WAC 317-21-305(3) [210 (2)(c)], navigation equipment checks on tow vessels are required where applicable; WAC 317-21-310(1) and 317-21-325 [230 (1)(a) and 230(1)], the phrase "tank barge crew" is replaced by "personnel employed on tank barges during oil transfers"; WAC 317-21-260(4) [240(4)], company management visits to vessels in lay-up status are not required; WAC 317-21-340(1) [270(1)], GPS receivers are not required on inland tank barge tow vessels. Radar is required on all tank barge tow vessels; WAC 317-21-340(2) [270(2)], differences in towing equipment requirements between coastal and inland towing are more clearly defined. Standards for wire rope records, inspection and maintenance are added; WAC 317-21-530 [430], a plan update is not required for crew

members who test positive for drugs or alcohol; and WAC 317-21-550 [450], the purpose of conducting OMS investigations is clarified.

Effective Date of Rule: June 7, 1995.

December 9, 1994
 Barbara Herman
 Director

WASHINGTON STATE OFFICE OF MARINE SAFETY
 Chapter 317-21 WAC
 (Chapter 317-20 WAC Is Repealed)
 OIL SPILL PREVENTION PLANS

PART 1
GENERAL

NEW SECTION

WAC 317-21-010 Purpose. This chapter establishes standards for oil spill prevention plans required for all tank vessels under RCW 88.46.040. These standards are designed to:

- (1) Provide the best achievable protection of state waters and marine environments;
- (2) Reduce the risk of a vessel casualty resulting in an oil spill; and
- (3) Encourage the development and use of procedures and technology that increase the safety of marine transportation and protection of the state's natural resources.

NEW SECTION

WAC 317-21-020 Application. (1) A tank vessel may not operate in state waters unless the vessel's owner or operator complies with the provisions of this chapter and any administrative action or order issued by the office in administering this chapter.

(2) A tank vessel entering state waters based on a U.S. Coast Guard determination that the vessel is in distress is exempt from the requirements of this chapter.

(3) An oil spill prevention plan for a tanker must meet the standards in Part 3 of this chapter.

(4) An oil spill prevention plan for a tank barge must meet the standards in Part 4 of this chapter.

(5) An oil spill prevention plan for a tank barge must demonstrate that any tow vessel used to transport the barge complies with applicable standards in Part 4 of this chapter.

(6) An approved oil spill prevention plan binds the owner, operator, or charterer by demise (bareboat charterer) of a tank vessel covered by the plan, and successors, assigns, agents, and employees.

NEW SECTION

WAC 317-21-030 Duties. An owner or operator of a tank vessel shall:

(1) Keep an approved oil spill prevention plan current to accurately represent the owner's or operator's policies, procedures, and practices;

(2) Update the approved plan annually;

(3) Make the vessel available during its scheduled stay in port for inspection by the office;

(4) Ensure that all charts, position recordings, and other records developed during the vessel's transit through or while at anchor in state waters, including voyage plans and position fixes, are not destroyed until the vessel departs its berth, anchorage, or moorage; and

(5) Supply information or documents requested by the office to complete, clarify, or confirm information presented in the plan.

NEW SECTION

WAC 317-21-040 Information protected from public disclosure. (1) An owner or operator may request that information contained in an oil spill prevention plan be protected from public disclosure. The request must be made to the administrator in writing and identify the legal basis supporting the request. To be protected, the information must be clearly identified by plan section, page number, paragraph, and, sentence.

(2) The owner or operator is solely responsible for all costs incurred, including reasonable attorney fees, in defending against any action for public disclosure brought under chapter 42.17 RCW. The owner or operator may seek injunctive relief under RCW 42.17.330. If the office receives a request for public disclosure of information for which an owner or operator has requested protection, the office will:

(a) Notify the owner or operator that a request has been made;

(b) Notify the owner or operator of any proceedings initiated to compel disclosure; and

(c) Withhold the information until released by the owner or operator or until a court order requires disclosure.

NEW SECTION

WAC 317-21-050 Language. All oil spill prevention plans, reports, correspondence, documents, and other records submitted to the office must be in English.

NEW SECTION

WAC 317-21-060 Definitions. Unless the context clearly requires otherwise, the definitions in chapter 317-05 WAC and the following apply to this chapter:

(1) "Best achievable protection" means the highest level of protection that can be achieved through the use of the best achievable technology and those management practices, staffing levels, training procedures, and operational methods that provide the greatest degree of protection available. The administrator's determination of best achievable protection shall be guided by the critical need to protect the state's natural resources and waters, while considering:

- (a) The additional protection provided by the measures;
- (b) The technological achievability of the measures; and
- (c) The cost of the measures.

(2) "Best achievable technology" means the technology that provides the greatest degree of protection, taking into consideration:

(a) Processes that are being developed, or could feasibly be developed, given overall reasonable expenditures on research and development; and

(b) Processes that are currently in use. In determining what is best achievable technology, the administrator shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.

(3) "Coastal" means state waters that are not inland waters.

(4) "Document" means a record including any printed or written paper, completed form, bound record book, log, photograph, film, sound recording, drawing, machine-readable material, or other recording device regardless of nature or characteristics.

(5) "Fleet" means more than one tank vessel operated by the same owner or operator.

(6) "Inland" means state waters where a pilot or pilotage license endorsement is required by state or federal law for any self-propelled vessel.

(7) "Proficient in English" means the ability to clearly speak the English language so personnel from other vessels and facilities understand and may safely complete a vessel operation.

(8) "Restricted visibility" means visibility is limited because of fog, mist, precipitation, sand storms or other condition limiting visibility.

(9) "Tank barge" means a tank vessel without a means of self-propulsion or a self-propelled tank vessel less than forty meters (one hundred thirty feet) in overall length.

(10) "Tanker" means a self-propelled tank vessel forty or more meters in overall length.

(11) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

A ship is constructed or adapted to carry oil in bulk as cargo or cargo residue if authorized to do so under the ship's certification or classification. A vessel carries oil as cargo or cargo residue if the oil is carried for dispensing to other vessels or equipment off the vessel, or for delivery from point to point, regardless of whether direct compensation for carriage is involved. A vessel being used to collect spilled oil from the water, and that may have some recovered oil storage capacity, does not carry oil as cargo.

(12) "Topping off" means the period of time oil is received in the last ten percent of available tank capacity in any cargo tank.

(13) "Training" means instruction, materials, and procedures, formal and informal, beyond minimum applicable crew licensing and documentation requirements, including shipboard materials, practical exercises, drills, on-the-job training, and other measures to ensure a capable and knowledgeable crew.

(14) "Vessel type" means vessels built to the same design and that have the same construction, sub-assembly, power plants, and cargo and deck arrangements.

NEW SECTION

WAC 317-21-070 Plan submission. (1) An owner or operator shall submit three copies of an oil spill prevention plan to the office. Each copy must contain the information and be in the format required by WAC 317-21-100.

(2) An owner or operator may submit a combined oil spill contingency plan and oil spill prevention plan. Six copies of the combined plan must be submitted to the office. Information that fulfills the requirements of both this chapter and chapter 317-10 WAC need not be repeated but must be clearly cross referenced in the submittal agreement required by WAC 317-21-120. Information that fulfills the requirements of this chapter must be clearly distinguished from information that fulfills the requirements of chapter 317-10 WAC.

(3) An owner or operator may submit a plan for a fleet of tank vessels. The plan must provide information unique to each vessel type, defined in WAC 317-21-060(14), in separate appendices.

(4) At any time, an owner or operator may submit a new complete plan for review and approval under this chapter. Approval of the new plan revokes all previous plans submitted for that vessel or fleet.

PART 2 PLAN REQUIREMENTS

NEW SECTION

WAC 317-21-100 Format. A tank vessel owner or operator shall submit an oil spill prevention plan divided into a system of numbered chapters, sections, and appendices, and bound and tabbed in loose-leaf binders. The chapters of the plan must be in the following order:

(1) *Preface.* The preface must include the submittal agreement required under WAC 317-21-120, a statement by the owner or operator that the vessel complies with the financial responsibility requirements of chapter 88.40 RCW, and, if applicable, a letter addressed to the administrator identifying protected information under WAC 317-21-040.

(2) *Document Control.* An amendment log or other form of document control must be provided to record amendments to the plan. The section amended, date of amendment, and name of the person making the amendment must be indicated.

(3) *Table of contents.* The table of contents must show the chapter, section, and appendix titles and page numbers, and the page numbers for tables, figures, and other graphics.

(4) *Chapter 1.* This chapter must contain policies, procedures, and practices for watch standing, navigation, engineering, pre-arrival tests and inspections, and emergencies that meet the standards in WAC 317-21-200 through 317-21-225 for tankers, or 317-21-300 through 317-21-310 for tank barges.

(5) *Chapter 2.* This chapter must contain policies, procedures, and practices for personnel training, illicit drug and alcohol use, personnel evaluation, work hour requirements, language and work hour documentation requirements that meet the standards in WAC 317-21-230 through 317-21-255 for tankers, or 317-21-315 through 317-21-335 for tank barges.

(6) *Chapter 3.* This chapter must contain policies, procedures, and practices that describe management, vessel visitation, and preventive maintenance programs that meet the standards in WAC 317-21-260 for tankers, or 317-21-340 for tank barges.

(7) *Chapter 4.* This chapter must contain descriptions of navigation equipment, emergency towing systems, towing

equipment, emergency reconnection equipment, and navigation lights and day shapes that meet the standards in WAC 317-21-265 for tankers, or 317-21-345 for tank barges.

(8) *Chapter 5.* This chapter must contain an event summary and event reports required under WAC 317-21-130.

NEW SECTION

WAC 317-21-110 Units of measure. Owners or operators shall express units of measure as follows: volumetric measurements shall be in barrels (petroleum); linear measurements shall be in feet and decimal feet; weight measurements shall be in long tons; velocity shall be in knots; and propulsive power shall be in shaft horsepower.

NEW SECTION

WAC 317-21-120 Submittal agreement. An oil spill prevention plan must include a submittal agreement that includes the following information.

(1) Information identifying the person submitting the plan including:

(a) The owner or operator by name, principle place of business, mailing address, and telephone number;

(b) The name, call sign, and Lloyd's number (official number for tank barges) of vessels covered by the plan; and

(c) The name, address, and telephone number of a person designated by the owner or operator to be contacted for matters concerning the plan.

(2) A statement, signed by the owner or operator, verifying that the submitted plan describes policies, procedures, and practices of the owner or operator employed on vessels covered by the plan and commits the owner or operator, the owner's or operator's successors, assigns, agents, and employees to complying with the policies, procedures, and practices described in the plan.

(3) For a tanker, an operational summary that describes:

(a) Routes normally transited including usual ports of call;

(b) Frequency and duration of typical port calls in state waters;

(c) The owner's or operator's management organization and identification by name, mailing address, and phone number of any ship, technical, or crewing management company providing service for a vessel covered by the plan;

(d) The total vessel manning complement required for compliance with company policy, collective bargaining agreements, insurance and underwriters, or other agreement; and

(e) The rating and assigned duties of any licensed or documented seamen who are brought aboard to temporarily relieve or supplement the vessel's manning complement, if any, while the vessel is in port.

(4) For a tank barge, an operational summary for the barge and a typical tow vessel that contains the information required under subsection (3) of this section.

(5) For a tanker or tank barge that operates entirely in state waters, a written schedule of the vessel's typical operations in state waters. The written schedule must identify the:

(a) Vessel's maximum bunker and cargo capacity in barrels (petroleum), average quantity of bunker and cargo

carried, and usual place and schedule for oil transfer and bunkering operations;

- (b) Typical routes served by the vessel;
 - (c) Typical schedule of the vessel;
 - (d) Expected pilotage, tug escort, lightering, or other assistance beyond that required by federal or state law; and
 - (e) Contingency plan covering the vessel under Washington law.
- (6) A written schedule submitted under WAC 317-040-050(2) meets the requirement under subsection (5) of this section.

NEW SECTION

WAC 317-21-130 Event reporting. (1) The owner or operator shall include an event summary of the past five years for each vessel covered by an oil spill prevention plan, or during the time the vessel has been under the control of the owner or operator if less than five years. The summary must include:

- (a) The date, time, and location of each event;
 - (b) The weather conditions at the time of the event;
 - (c) The vessel operations underway at the time;
 - (d) The identity of any facilities and other vessels involved in the event;
 - (e) The type and amount of any oil spilled, and the estimated amount recovered;
 - (f) A list of any government agencies to which the event was reported;
 - (g) A brief analysis of any known causes and contributing factors for each event that considers, at a minimum, human error, equipment or technology failure, and maintenance or inspection deficiencies;
 - (h) A description of measures taken to prevent a reoccurrence of each event, including changes to operating or maintenance procedures, personnel policies, vessel crew and organization, and the vessel's technology.
- (2) The owner or operator shall submit to the office reports of events that occur after a plan is submitted. Each report must contain the information required by subsection (1) of this section. The owner or operator shall submit the report immediately on request by the office. If the office makes no request, the owner or operator shall submit a report no later than thirty days after the date of the event.
- (3) For the purposes of this section, "event" means a:
- (a) Collision;
 - (b) Allision;
 - (c) Near-miss incident which means a pilot, master, or other person in charge of navigating a tank vessel successfully takes action of a nonroutine nature to avoid a collision with another ship, structure, or aid to navigation, or grounding of the vessel, or damage to the environment;
 - (d) Marine casualty which means those casualties described in 46 C.F.R. sec. 4.05-1, except subsections (a)(5), (a)(6) and (b), regardless of vessel type, nation of registry, or location;

(e) Disabled vessel which means an accidental or intentional grounding, failure of the propulsion or primary steering systems, failure of a component or control system that reduces the vessel's maneuverability, or fire, flood, or other incident that affects the vessel's seaworthiness or fitness for service;

(f) Spills of oil from a tank vessel of over twenty-five barrels; or

- (g) For a tank barge, damaged towing gear.
- (4) Failure to submit a complete event summary or an event report may result in:
- (a) Disapproval of the owner's or operator's plan;
 - (b) Penalties assessed under RCW 88.46.090(6) for each failure to submit information requested in subsection 1 (a) through (h) of this section; or
 - (c) Referral for prosecution under RCW 88.46.080.

NEW SECTION

WAC 317-21-140 Vessel specific information and documentation. The owner or operator shall include in an appendix to a vessel's oil spill prevention plan vessel specific information and documentation.

- (1) Vessel specific information includes each vessel's:
- (a) Name and former names, country of registry, official number, and call sign;
 - (b) Oil carrying capacity for cargo and bunkers;
 - (c) Length overall, maximum beam, gross tonnage, deadweight tonnage, number of screws, shaft horsepower, and type of propulsion;
 - (d) A simple diagram of the vessel's general arrangement;
 - (e) For tank barges, the minimum shaft horsepower, number and type of screws, and number of persons required to crew vessels used to tow the barge; and
 - (f) The highest grade of oil each vessel is authorized to carry.
- (2) Certification and classification documentation includes:
- (a) Copies of certificates of inspection and other authorizing documents issued by the U. S. Coast Guard in effect at time of submission of the plan;
 - (b) Copies of minimum manning certificates and certification by foreign classification societies in effect at time of submission of the plan;
 - (c) Copies of certificates of financial responsibility issued either by the state of Washington, or issued by another government but which meet the financial responsibility requirements of chapter 88.40 RCW; and
 - (d) For owners or operators of tank barges, copies of any certification or other authorizing documentation for tow vessels supplying propulsion to the tank barge.

PART 3 BEST ACHIEVABLE PROTECTION STANDARDS FOR TANKERS

NEW SECTION

WAC 317-21-200 Operating procedures - watch practices. An oil spill prevention plan for a tanker must describe watch practices, policies, and procedures that meet the following standards.

- (1) *Navigation Watch.* The navigation watch shall consist of at least two licensed deck officers, a helmsman, and a lookout. One of the licensed deck officers may be a state-licensed pilot when the tanker is in pilotage waters. The helmsman may not serve as a lookout.

(a) When the tanker is operating in restricted visibility, the navigation watch shall include at least three licensed deck officers, one of whom may be a state-licensed pilot when the tanker is in pilotage waters. The vessel master or officer in charge shall determine periods of restricted visibility and record in the deck log the time restricted visibility begins and ends.

(b) Lookouts must be posted in a safe location that allows sight and hearing of all navigational hazards and other vessels.

(c) There must be rapid and reliable communication between the lookout and the officer in charge on the bridge.

(d) The name of a navigation watch member must be logged in the deck log when the member assumes watchstanding duties.

(2) *Bridge Resource Management.* The navigation watch shall employ a bridge resource management system that organizes the navigation watch into a bridge team and coordinates the use of bridge equipment for vessel navigation, collision avoidance, and bridge administration. The bridge resource management system must be standard practice throughout the owner's or operator's fleet. The system must include, but is not limited to:

(a) Defined bridge team assignments and duties for open sea transits, coastal and restricted waterway navigation, and conditions of restricted visibility;

(b) Procedures for navigating with a pilot;

(c) Defined responsibilities, stations, and communication guidelines for each bridge team member in response to emergencies, including pollution incidents;

(d) Clearly articulated goals, objectives, and priorities for each bridge team member;

(e) Clear delegation of duties, responsibilities, and authority between bridge team members;

(f) Guidelines for understandable and situation-specific communication between bridge team members and between the bridge team and pilot for open sea transits, coastal, and restricted waterway navigation, and conditions of restricted visibility;

(g) Comprehensive passage and voyage planning; and

(h) Defined responsibilities, stations, and communication guidelines for each bridge team member for maneuvering to enter or leave designated and customary shipping lanes, anchorage, and moorage.

(3) *Coordination with Pilots.* The bridge resource management system must include a procedure to coordinate interaction of the bridge team and pilot at a time and in a manner that does not interfere with the performance of the pilot's duties. To facilitate this coordination, vessel masters shall use a checklist that includes, at a minimum, the following:

(a) Information requested by the pilot under WAC 296-116-205 concerning vessel maneuvering characteristics, condition of navigation and communication equipment, capabilities and problems with the propulsion and steering system, and other vessel specifications;

(b) The responsibilities of each bridge team member under the vessel's bridge resource management system;

(c) Identification of members of the bridge team with English proficiency; and

(d) A passage plan for restricted waterways including:

(i) Intended routes and waterways transited and appropriate vessel speed for each waterway;

(ii) Waterway characteristics including depths, type of bottom, currents, tides, and anchorage areas;

(iii) Ship-to-shore communication procedures;

(iv) Escort vessel and assist tug requirements and communications;

(v) Mooring arrangements;

(vi) Expected weather and traffic; and

(vii) Local traffic management rules and requirements.

(4) *Security Rounds.* The master shall designate spaces on the vessel subject to security rounds to identify and to correct, if feasible, safety hazards such as potential fire hazards, defective machinery, hull and bulkhead integrity, malfunctioning safety equipment, potential sources of pollution, and potentially dangerous crew activities.

(a) Security rounds must be conducted when the vessel is underway, anchored, or moored.

(b) The master shall designate security rounds on as much of the vessel as the master deems safe for the crew member making the round.

(c) Crew members making security rounds shall be provided appropriate training and checklists, and instructed to first notify the deck watch officer before attempting corrective action.

(d) Security rounds must be made at least every two hours. On tankers equipped with functioning automated fire and flooding detection systems, security rounds must be made at least every four hours.

(e) The vessel's deck watch officer shall log the completion of each security round in the deck log.

(5) *Anchor Watch.* A licensed deck officer shall maintain a watch from the bridge while the tanker is anchored. The officer shall continuously monitor the position of the vessel at anchor and plot its position at least once each hour.

(6) *Engineering Watch.* Licensed engineers shall be in the engineering control room and in the immediate vicinity of the machinery space's emergency throttle controls if:

(a) The tanker's engineering control room is not within the machinery spaces; and

(b) The vessel is maneuvering to embark or disembark a pilot, docking or departing berth, or anchoring or departing anchorage.

[NEW SECTION]

WAC 317-21-205 Operating procedures - navigation.

An oil spill prevention plan for a tanker must describe navigation practices, policies and procedures that meet the following standards.

(1) *Fix Intervals.* The position of tankers while underway in state waters must be constantly monitored using all appropriate navigational aids to determine set and drift. Positions must be recorded at fifteen minute intervals or less, and may be recorded manually or electronically.

(2) *Voyage Planning.* Prior to operating in state waters, the vessel master shall ensure that a comprehensive written voyage plan is developed for the tanker's trip through state waters. The voyage plan is a navigation guide used by the bridge team for transits through state waters, but subject to deviations by the master based on local conditions or

recommendations from the vessel's state-licensed pilot. A standard voyage plan for consecutive voyages along the same routes may be used if updated prior to the tanker's entry into state waters. The voyage plan must address, at a minimum, the following:

(a) Channel depth and width, turning areas, navigational obstructions, and appropriate speeds for each waterway transited;

(b) Accuracy and dependability, and operating status, of available navigational aids, including radio-navigational aids;

(c) Environmentally sensitive areas designated and provided by the northwest area committee established under 33 U.S.C. sec. 1321(j), traffic separation systems, areas-to-be-avoided, landfalls, routes expected to be transited at night, and other areas where caution should be exercised;

(d) Predicted weather, currents and tides;

(e) Expected vessel traffic;

(f) Procedures, expected communications, and times for complying with the requirements for vessel traffic services, pilotage, tug escorts, and tug assists;

(g) Emergency procedures to be used while transiting state waters for vessel casualties, pollution incidents, and personnel health and safety;

(h) Berthing and anchoring arrangements, including water depth at intended mooring or anchorage;

(i) Engineering considerations, including pre-arrival tests and inspections as required under WAC 317-21-215, planned maintenance, fuel tanks used and expected fuel consumption, stability, trim and drafts, and required ballast; and

(j) Review of the information in, and accuracy of, available charts, notices to mariners, and other navigational publications.

(3) *Compass Checks.* While underway in state waters, the vessel master shall establish a schedule for frequent comparisons of the steering gyrocompass with the magnetic compass;

(4) *Port Angeles.* A master of a tanker carrying cargo shall use at least one assist tug for anchoring and departing anchorages in the port of Port Angeles. The port of Port Angeles includes all navigable waters west of 123 degrees, 24 minutes west longitude encompassed by Ediz Hook.

(5) *Tug Escorts.* Reserved.

(6) *Rescue Tug.* Reserved.

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

[NEW SECTION]

WAC 317-21-210 Operating procedures - engineering. An oil spill prevention plan for a tanker must describe engineering practices, policies, and procedures that meet the following standards.

(1) Tankers without automatic stand-by switching gear for stand-by generators must operate with the a stand-by generator running and immediately available to assume the electrical load while underway in state waters.

(2) The steering gear flat must be inspected hourly while operating in state waters, unless monitored by closed circuit television or other acceptable monitoring system.

(3) If applicable, scoop injection cooling water systems must be secured at least six hours before operating in state waters.

(4) If applicable, the main engines must be operating to capacity on fuel used for maneuvering before operating in state waters.

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

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

[NEW SECTION]

WAC 317-21-215 Operating procedures - pre-arrival tests and inspections. An oil spill prevention plan for a tanker must describe policies, procedures, and practices that require the following pre-arrival tests and inspections to be conducted and logged in the deck or engineering log twelve hours or less before entering or getting underway in state waters.

(1) Navigation equipment, including compasses, radars, direction finders, and speed monitoring devices, must be inspected. Compass, range, and bearing errors must be logged in the deck log and posted on the bridge to be used by the bridge team.

(2) Emergency and stand-by ship service generators must be started and the switch gear proven to be working.

(3) All steering systems and local controls of the steering gear at the steering gear flat must be tested, and the steering gear flat inspected for unusual conditions such as leaks, fractures, and loose connections.

(4) The main engine, or engines, must be tested ahead and astern, or through the full range of pitch of controllable pitch propellers, if the tanker is so equipped.

(5) Main lubrication oil pumps must be tested and ready for immediate use.

(6) Main heavy oil pumps must be tested and ready for immediate use.

(7) For main engine lubrication and fuel oil systems with fitted duplex strainers, stand-by strainers must be cleaned, purged, and made immediately available.

(8) Fuel sufficient to operate the main engine or engines on the transit to berth or anchorage must be transferred to the main engine settler or service tanks, or both.

(9) For motor-driven tankers:

(a) Main and stand-by cooling water system circulating pumps must be tested and ready for immediate use;

(b) Intake or charge air auxiliary electric blowers, if applicable, must be tested and ready for immediate use;

(c) Starting and control air tanks must be filled and ready for use;

(d) Main and stand-by air compressors must be tested and ready for immediate use; and

(e) The starting air piping system must be aligned and drained of condensate.

(10) For steam-driven tankers:

(a) Spare boiler burners must be prepared and ready for immediate use;

(b) Forced draft fans must be tested and ready for immediate use; and

PERMANENT

(c) Main and stand-by feed water pumps must be tested and ready for immediate use.

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

[NEW SECTION]

WAC 317-21-220 Operating procedures - emergency procedures. An oil spill prevention plan for a tanker must describe practices, policies, and procedures for emergencies that meet the following standards.

(1) The vessel master shall maintain and post station bills clearly stating crew assignments and duties for the following emergencies:

- (a) Shipboard fire;
- (b) Orders to abandon ship;
- (c) Man overboard; and
- (d) Oil spill response.

(2) The vessel master shall establish written procedures for responding to:

- (a) Collisions and allisions;
- (b) Groundings and strandings;
- (c) Hull breach, structural failure and foundering;
- (d) Loss of propulsion;
- (e) Loss of steering;
- (f) Loss of electrical power; and
- (g) Gyrocompass malfunction.

(3) The vessel master shall establish written procedures outlining preparations for:

- (a) Emergency towing;
- (b) Responding to loss of throttle control from the bridge which includes ensuring engineers are quickly on station as described in WAC 317-21-200(6); and
- (c) Weather that poses hazards to personnel, the vessel, or equipment.

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

[NEW SECTION]

WAC 317-21-225 Operating procedures - events. If the vessel is involved in an event, defined under WAC 317-21-130(3), while in state waters, the position plotting records, whether written, typed, electronically, or otherwise recorded, required under WAC 317-21-205(1), and the comprehensive written voyage plan required under WAC 317-21-205(2) may not be erased, discarded, or altered without permission of the office.

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

NEW SECTION

WAC 317-21-230 Personnel policies - training. An oil spill prevention plan for a tanker must describe a comprehensive training program that requires training beyond the training necessary to obtain a license or merchant marine document. The program must include instruction on the use of job-specific equipment, installed technology, lifesaving equipment and procedures, and oil spill prevention and

response equipment and procedures. The program must at a minimum contain the following elements.

(1) *Crew Training.* Within three years from the effective date of this chapter or from the date of employment by the owner or operator, whichever is later, a crew member shall complete a comprehensive training program approved by the office.

(2) *Vessel Orientation.* Personnel newly assigned to a tanker or who have not served on another tanker of the same vessel type for more than one year, and maintenance personnel who sail on tankers, shall undergo an orientation that includes:

(a) Station assignments and procedures under WAC 317-21-220; and

(b) A vessel familiarization tour that includes:

(i) A walking tour of the deck house and other spaces designated by the vessel master; and

(ii) Identification of all egress routes.

(3) *Position Specific Requirements.* All personnel newly hired or who have not served on a tanker of the same vessel type for more than one year, and who are filling positions designated on the vessel's certificate of inspection issued by the U.S. Coast Guard or safe manning certificate issued by the vessel's nation of registry, shall complete training specific to their position.

(a) The vessel's master, chief mate, chief engineer, and senior assistant engineer shall be trained in shipboard management.

(b) The vessel's master and other licensed deck officers shall be trained in:

- (i) Bridge resource management;
- (ii) Automated radar plotting aids;
- (iii) Shiphandling;

(iv) Crude oil washing, if the vessel is so equipped;

(v) Inert gas systems, if the vessel is so equipped;

(vi) Cargo handling for all cargo types carried, including associated hazards with each type, and hull stress during cargo transfer;

(vii) Oil spill prevention and response responsibilities; and

(viii) Shipboard fire fighting.

(c) The vessel's licensed engineering officers shall be trained in:

(i) Inert gas systems, if the vessel is so equipped;

(ii) Vapor recovery systems, if the vessel is so equipped;

(iii) Crude oil washing, if the vessel is so equipped;

(iv) Oil spill prevention and response responsibilities; and

(v) Shipboard fire fighting.

(d) Unlicensed ratings shall be trained in bridge resource management if assigned bridge responsibilities, or in cargo handling if assigned cargo handling responsibilities, or both, and all ratings shall receive training in oil spill prevention and response, and shipboard fire fighting.

(4) *Refresher Training.* Personnel who received training described in subsection (3) of this section shall undergo refresher training at least once every five years. Refresher training must include examination of the crew member's skills to determine his or her ability to safely and effectively perform in the position assigned. Personnel who fail to undergo refresher training within five years, shall complete

the position specific training program required in subsection (3) of this section.

(5) *Shipboard Drills*. The following shipboard drills must be conducted and logged in the vessel's deck log.

(a) A weekly fire drill that meets the requirements of 46 C.F.R. sec. 35.10-5.

(b) A monthly abandon ship drill that meets the requirements of the International Convention on Safety of Life at Sea, Chapter III, Part B, Regulation 18.

(c) The following drills must be conducted quarterly:

(i) Oil spill response;

(ii) Emergency steering that complies with the International Convention of Safety of Life at Sea, Chapter V, Regulation 19-2(d);

(iii) Loss of propulsion;

(iv) Loss of electrical power;

(v) Emergency towing; and

(vi) Man overboard.

[NEW SECTION]

WAC 317-21-235 Personnel policies - illicit drugs and alcohol use. (1) An owner or operator of a tanker shall have policies, procedures, and practices for alcohol and drug testing that comply with 33 CFR Part 95 and 46 CFR Parts 4 and 16, except 46 CFR sec. 16.500. The owner's and operator's policies, procedures, and practices shall ensure that:

(a) A person neither consumes, nor is under the influence of, alcohol on a tanker while in state waters unless that person is a passenger who does not perform, and will not perform, any duty on the tanker in state waters; and

(b) A person neither consumes, nor is under the influence of, illicit drugs on a tanker while in state waters.

(2) The testing program must include tests for alcohol and drug use that meet the following objectives:

(a) A person is not employed who is likely to consume illicit drugs or consume alcohol while on a tanker in state waters;

(b) Chemical tests for evidence of alcohol or drug use, or both, are taken from all bridge and engineering personnel as soon as practicable after allision, collision, grounding, ship board fire, flood, or discharge of oil or hazardous material, as those terms are defined in WAC 317-21-130(3); and

(c) A person on a tanker is tested for drug or alcohol use, or both, when there is reasonable cause to believe the person is under the influence of alcohol or illicit drugs; and

(d) All personnel are randomly chemically tested for being under the influence of illicit drugs or alcohol.

(3) The owner or operator shall describe measures employed to ensure quality control of all testing performed and accuracy of test results.

(4) The owner or operator shall submit a report with annual plan updates required under WAC 317-21-530. The report must describe testing activity and results for the past calendar year. The report must include:

(a) The total number of personnel covered by the owner or operator's plan during the past year;

(b) The total number of personnel tested for illicit drugs in the past year;

(c) The total number of personnel tested for alcohol in the past year; and

(d) A numerical summary of the testing performed and positive test results by ratings and assigned vessel.

(5) The owner or operator shall report to the office the name, rating and assigned vessel of any navigation or engineering watchstander who tested positive more than once for illicit drugs or use of alcohol on a tanker while employed by the owner or operator. The report shall be made within seventy-two hours of confirmation of the positive test result.

(6) For the purposes of this section, the following definitions apply.

(a) "Chemical test" means an analysis of a person's breath, blood, urine, saliva, bodily fluids, or tissues for evidence of illicit drug or alcohol use performed in a scientifically recognized manner.

(b) "Illicit drug" means a narcotic drug, marijuana, and any substance listed as a controlled substance under 21 U.S.C. sec. 802.

(c) "Positive test results" means a chemical test that identifies any amount of alcohol or levels of illicit drugs meeting or exceeding initial cut off levels described in 49 CFR sec. 40.29(e) found as a result of chemically testing a person's breath, blood, urine, saliva, bodily fluids, or tissues.

(d) "Random chemically tested" means that each crew member of a vessel covered by a prevention plan has a substantially equal chance of selection on a statistically valid basis throughout the crew member's employment, as long as fifty percent of all vessel personnel are tested annually. Random testing may not include pre-employment, post-accident, reasonable cause tests, or tests required to maintain a mariner's license or documentation. Random testing also may not include tests required by a marine facility.

(e) "Reasonable cause" means a reasonable belief that a person has used an illicit drug or alcohol based on either direct observation of actual use or of specific, contemporaneous physical, behavioral, or performance indicators of probable use.

(f) "Under the influence" means either the effects of consuming alcohol or illicit drugs is apparent by observation of the person's manner, disposition, speech, muscular movement, general appearance or behavior, or the person has a positive test result. A person is presumed to be under the influence if observed to consume any alcohol or drugs other than recommended dosages of prescribed or nonprescribed medications.

(7) If one percent or less of the personnel covered by an owner's or operator's plan have positive test results for two consecutive calendar years, the owner or operator may reduce the level of random testing to twenty-five percent of covered personnel. Positive test results from post-accident, reasonable cause, and random testing are included in the calculation of the one percent. If more than one percent of the covered personnel have positive test results for two consecutive years, the office may require:

(a) Pre-boarding alcohol testing for all personnel;

(b) Unannounced, random alcohol testing of personnel while the vessel is in state waters; or

(c) Both.

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

[NEW SECTION]

WAC 317-21-240 Personnel policies - personnel evaluation. An oil spill prevention plan for a tanker must contain policies, procedures, and practices that describe a program for evaluating members of a vessel's crew. The program must include the following elements.

(1) The vessel master, chief engineer, and officers shall monitor the fitness for duty of crew members. A crew member determined to be unfit for duty shall be immediately relieved of duties.

(2) Crew members with a contractual obligation to serve on vessels covered by the prevention plan for more than six months shall undergo a performance review at least annually that provides a job performance evaluation and identifies any training needed to safely and effectively perform his or her assigned duties.

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

[NEW SECTION]

WAC 317-21-245 Personnel policies - work hours.

(1) A member of a tanker's crew may not work more than fifteen hours in twenty-four hours, nor more than thirty-six hours in seventy-two hours except in an emergency. Time spent performing administrative duties is considered time worked.

(2) An emergency is an unforeseen situation that poses an imminent threat to human safety or the environment, or substantial loss of property.

(3) A licensed deck officer may not assume duties on a navigation watch when first departing a berth in state waters unless he or she was off duty for at least six hours of the twelve hours prior to departure.

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

[NEW SECTION]

WAC 317-21-250 Personnel policies - language. An oil spill prevention plan for a tanker must demonstrate that:

(1) All licensed deck officers and the vessel's designated person in charge under 33 CFR sec. 155.700 are proficient in English and speak a language understood and spoken by subordinate officers and unlicensed crew; and

(2) All operating manuals, directives, written instructions, placards and station bills are printed in a language understood and spoken by both the vessel's licensed officers and unlicensed crew.

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

[NEW SECTION]

WAC 317-21-255 Personnel policies - record keeping. The owner or operator shall maintain the following records:

(1) *Training Records.* The owner or operator shall maintain detailed training records for personnel assigned to each vessel covered by the plan. The records must include training required to obtain a license or merchant marine

document, and completion dates and performance evaluations of the training described in WAC 317-21-230 (2) through (4). Personnel training records must be maintained either on the vessel where the person is assigned or at a central location. If the owner or operator maintains personnel training records at a central location, the owner or operator shall:

(a) Provide the office the address where the records are kept and name of the custodian of the records; and

(b) Provide the office requested records within seventy-two hours of receiving a request for the record.

(2) *Work Hour Records.* The owner or operator shall ensure that compliance with WAC 317-21-245 is documented and, upon request, shall provide the documentation to the office.

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

[NEW SECTION]

WAC 317-21-260 Management. (1) *Management Oversight.* Owners and operators of a tanker shall have management policies, procedures, and practices that demonstrate active monitoring of vessel operations and maintenance, personnel training and development, personnel health and fitness for duty, technological improvements in navigation and cargo handling, and management practices. Active monitoring includes identification of problems in these areas and implementation of corrective measures.

(2) *Management Program.* Subject to subsection (3) of this section, the management program must meet the certification requirements of:

(a) The International Ship Managers Association for complying with the Code of Ship-Management Standards;

(b) Det Norske Veritas for complying with the Safety/Environmental Protection management system;

(c) Lloyd's Register for complying with the Quality Management System; or

(d) The vessel's nation of registry for complying with the International Maritime Organization's International Safety Management Code.

(3) *Management Program Elements.* An owner or operator without a certified management program under subsection (2) of this section, shall have a management program containing the following elements.

(a) *Policy Statement.* A company policy statement, signed by the company's chief executive officer, committing the company, management, employees, and agents to:

(i) Personal safety; and

(ii) Prevention of environmental pollution.

(b) *Organization.* An organizational scheme that includes:

(i) Clear lines of authority and communication for safety, quality assurance, and environmental pollution prevention for both the vessel and shore-side management;

(ii) Shipboard safety meetings at least weekly;

(iii) An accident prevention program for recognizing, evaluating, and reducing accidents that result in personal injury or reduction of quality assurance, or both; and

(iv) A program for responding to environmental pollution or events, or both, that provides reporting guidelines,

investigation procedures, and a process for determining and implementing corrective measures.

(c) **Performance Measurement.** A program to measure the performance of management, employees, and agents in meeting the goals stated in the company's policy statement. The program must include a system of internal audits by the company and external audits by an independent auditor.

(4) **Vessel Visitation.** An owner or operator of a tanker shall have a vessel visitation program that requires quarterly visits by company management such as port captains or port engineers to each tanker covered by the plan in active service. During these visits, company managers shall review shipboard management and operations with the vessel master and chief engineer, and provide guidance in correcting identified problem areas. The vessel's master shall record the time, date, and findings in the deck log.

(5) **Preventive Maintenance.** An oil spill prevention plan for a tanker must describe a comprehensive maintenance program that includes, at a minimum, the following elements.

(a) **Planned Maintenance.** A planned maintenance program for a vessel's navigation, propulsion, steering, communications, electrical, and cargo handling systems that involves at a minimum:

(i) Preventive maintenance for each system according to the procedures and recommended frequency of the machine's or equipment's manufacturer;

(ii) Annual inspections of each system; and

(iii) Inventory control and maintenance of necessary replacement parts.

(b) **Critical Area Inspection Plans.** A plan to monitor and repair the structural integrity of critical areas of the vessel's holds, piping, and hull identified by historical information or predictive models, or both. Critical areas must be visually inspected annually, and thickness gauged where structural integrity is questioned. Corrosion reduction measures must be identified and scheduled.

(c) **Documentation.** Surveys of the holds, piping, and hull by the vessel's classification society, and annual inspections or surveys by any other independent entity, must be documented and any reports generated retained on board.

NEW SECTION

WAC 317-21-265 Technology. (1) **Navigation Equipment.** An oil spill prevention plan for a tank vessel must describe navigation equipment used on a vessel covered by the plan which includes:

(a) Global positioning system (GPS) receivers; and

(b) Two separate radar systems, one of which is equipped with an automated radar plotting aid (ARPA).

(2) **Emergency Towing System.** Tankers must be equipped with an emergency towing system on both the bow and stern within two years from the effective date of this chapter that:

(a) Comprises:

(i) Designated strong points able to withstand the load to which they may be subjected during a towing operation in maximum sustained winds of forty knots and sea or swell heights of five and a half meters (18 feet);

(ii) Chafing chains, towing pennant, tow line and connections of a size and strength to tow the tanker fully

laden in maximum sustained winds of forty knots and sea or swell heights of five and a half meters (18 feet); and

(iii) Appropriately sized and colored marker buoys attached to the towing pennants; and

(b) Is deployable:

(i) In 15 minutes or less by at most two crew members;

(ii) From the bridge or other safe location when the release points are inaccessible; and

(iii) Without use of the vessel's electrical power.

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.

PART 4

BEST ACHIEVABLE PROTECTION STANDARDS FOR TANK BARGES

NEW SECTION

WAC 317-21-300 Operating procedures - watch procedures. An oil spill prevention plan for a tank barge must describe watch policies, procedures, and practices for the tank barge and a typical tow vessel used to transport the barge that meet the following standards:

(1) **Navigation Watch Composition.** The navigation watch on the tow vessel shall consist of at least one licensed deck officer or tow vessel operator.

(a) When underway in restricted visibility, a lookout must be assigned to the navigation watch and stationed in a safe location that allows sight and hearing of all navigational hazards and other vessels, and there must be a rapid and reliable means of communication between the lookout and the tow vessel operator.

(b) The tow vessel's operator shall determine periods of restricted visibility and record in the deck log the date and time restricted visibility begins and ends.

(c) The names of each navigation watch member must be logged in the deck log as the member assumes duties.

(2) **Security Rounds.** Security rounds must be made in compliance with the standards in 317-21-200(4) and include:

(a) Inspection of towing equipment;

(b) Navigation lights on both the tow vessel and the tank barge if the person can do so safely; and

(c) For moored barges:

(i) Inspection of the tank barge if attended by the tow vessel; or

(ii) Inspections that comply with 46 C.F.R. Sec. 35.05-15(b), if not attended by the tow vessel.

NEW SECTION

WAC 317-21-305 Operating procedures - navigation procedures. An oil spill prevention plan for a tank barge must describe policies, procedures, and practices that ensure the tow vessel operator complies with the following navigation standards:

(1) **Voyage Planning Practices and Procedures.** The tow vessel operator shall comply with established voyage planning practices and procedures. Standard voyage plans may be used for frequently traveled routes if updated prior to departure. The practices and procedures must include, at a minimum, the following:

(a) Channel depth and width, turning areas, navigational obstructions, and appropriate speeds for each waterway transited;

(b) Use of routes outside of charted traffic separation lanes or close to shore where not prohibited;

(c) Identification of commercial and recreational fishing grounds to be avoided or navigated; and

(d) Identification of areas where tank barges may not transit including Deception Pass, Swinomish Slough, and Hadlock Cut in Puget Sound;

(e) Accuracy and dependability, and functioning, of available navigational aids, including radio-navigational aids;

(f) Environmentally sensitive areas designated and provided by the northwest area committee established under 33 U.S.C. sec. 1321(j), traffic separation systems, areas-to-be-avoided, landfalls, routes expected to be transited at night, and other areas where caution should be exercised;

(g) Predicted weather, currents and tides;

(h) Expected vessel traffic;

(i) Review of the information in, and accuracy of, available charts, notices to mariners, and other navigational publications;

(j) Tank barge inspections immediately prior to and after the voyage including inspections of hull integrity, towing equipment, and navigation lights.

(2) *Bar-Crossing Procedures.* Tow vessel operators shall comply with procedures to cross ocean bars that:

(a) Prohibit crossings with tandem tows;

(b) Prohibit crossings in heavy weather or sea conditions, or both, or when the swell height is excessive;

(c) Require all main deck hatches and ports on the tow vessel and barge to be closed and secured;

(d) Require all generators and tow winch engines to be running while crossing a bar;

(e) Require tow winch brakes to be set with the air brake off and the hand brake set hand-tight;

(f) Require chafe boards to be left off during a bar crossing; and

(g) Require the tow vessel operator to pilot the vessel, a crew member to be stationed at the tow winch controls with a rapid and reliable means of communication with the operator, and a crew member to be on call to respond to machinery space alarms.

(3) *Navigation Equipment Checks.* The tow vessel operator shall comply with applicable elements of WAC 317-21-205(3) and WAC 317-21-215(1).

NEW SECTION

WAC 317-21-310 Operating procedures - emergency procedures. An oil spill prevention plan for a tank barge must describe policies, procedures, and practices for both the barge and tow vessel for:

(1) Shipboard fire;

(2) Man overboard;

(3) Groundings and strandings; and

(4) Lost barge retrieval.

NEW SECTION

WAC 317-21-315 Personnel policies - crewing. An oil spill prevention plan for a tank barge must contain policies, procedures, and practices that demonstrate the following:

(1) Two personnel, one of whom must be a certified tankerman under 46 C.F.R. subpart 12.20, shall be on the tank barge during topping off if receiving oil cargo from a facility or tank vessel, except:

(a) On tank barges constructed to provide an unrestricted view of all cargo tank openings from any point on the barge and if topping off is conducted at a reduced rate of flow; or

(b) On tank barges equipped with overfill protection devices approved by the U.S. Coast Guard and if topping off is conducted at a reduced rate of flow.

(2) Three licensed officers or tow vessel operators shall be on a tow vessel for tank barge tows in coastal waters.

(3) Tow vessel operators shall maintain a list of crew members while towing a tank barge in state waters.

NEW SECTION

WAC 317-21-320 Personnel policies - training. An oil spill prevention plan for a tank barge must describe a comprehensive training program for the tow vessel crew and tank barge personnel that meets the standards described in WAC 317-21-230 (1), (2), (3), (c)(iv) and (v), and (4). Tank barge personnel shall also be trained in cargo handling. The following drills must also be conducted:

(1) For coastal towing, drills are conducted at least once per voyage for shipboard fire fighting and man overboard. In addition, lost barge retrieval procedures and oil spill response procedures must be reviewed at least once per voyage.

(2) For inland waterway towing:

(a) A shipboard fire fighting drill is conducted weekly;

(b) A lost barge retrieval drill is conducted monthly; and

(c) Oil spill response and man overboard drills are conducted quarterly.

NEW SECTION

WAC 317-21-325 Personnel policies - illicit drug and alcohol use. The owner or operator shall comply with the requirements of WAC 317-21-235.

NEW SECTION

WAC 317-21-330 Personnel policies - work hours. A person employed on a tank barge while conducting oil transfers shall comply with the standards described in WAC 317-21-245. Work hours do not include periods when an oil transfer procedure is shut down and oil transfer duties are not being performed.

NEW SECTION

WAC 317-21-335 Personnel policies - record keeping. (1) *Training Records.* The owner or operator shall maintain detailed training records for tank barge personnel and tow vessel crew members that meet the requirements of WAC 317-21-255(1).

(2) The owner or operator shall ensure that compliance with WAC 317-21-330 is documented and, upon request, shall provide the documentation to the office.

NEW SECTION

WAC 317-21-340 Management. *Management Program.* An oil spill prevention plan for a tank barge must describe a management program for the tank barge and tow vessel used to transport the barge that meets the standards described in WAC 317-21-260.

NEW SECTION

WAC 317-21-345 Technology. (1) *Navigation Equipment.* An owner or operator of a tank barge shall ensure that tow vessels transporting tank barges are equipped with a functional radar. Tow vessels transporting tank barges in coastal waters shall be equipped with global positioning system (GPS) receivers.

(2) *Towing Equipment.* An owner or operator of a tank barge shall employ towing equipment that complies with the following standards:

(a) Tow Vessels. Tow vessels that transport tank barges in coastal waters must have twin screws and a minimum bollard pull of four pounds per deadweight ton of the tank barge.

(b) Coastal Tow Wire. The tow wire for coastal hawser towing must have:

- (i) A diameter of at least one and one-quarter inch;
- (ii) A nominal breaking strength of two and a half times the bollard pull of the tow vessel;
- (iii) An independent wire rope core;
- (iv) Improved plow steel or extra improved plow steel wire;

(v) Been heavily lubricated or galvanized at the time of manufacture;

(vi) A right or left regular lay and is six by nineteen construction or larger; and

(vii) A tow line that terminates in either:

(A) A spelter or thermo-set resin poured socket sized to exceed the breaking strength of the tow wire; or

(B) A spliced eye with a thimble sized to exceed the breaking strength of the tow wire.

(c) Inland Tow Wire. The tow wire for inland hawser towing must comply with the requirements in (b) of this subsection except:

(i) The primary tow line for inland towing may be synthetic fiber; and

(ii) Swaged eyes and wire clips may not be used on the primary tow line.

(d) Bridles and Surge Chains. Tank barges must be equipped with:

(i) For coastal hawser towing, tow bridle and surge chains where the:

(A) Breaking strength of each bridle leg and the surge chain is 1.3 times the nominal breaking strength of the primary tow line;

(B) Chain is Grade Two or higher, welded or forged, integral stud link chain; and

(C) Surge chain may have an end link or one studless link;

(ii) For inland hawser towing, tow bridles made of chain or synthetic fiber or wire-rope where the breaking strength of each bridle leg is equal or greater than the nominal breaking strength of the primary tow line.

(e) Barge Fittings. Tank barges must be equipped with:

(i) Two tow pads to which the tow bridle is connected where the:

(A) Tow pad and supporting structure has a yield strength of 1.25 times the nominal breaking strength of the tow line;

(B) Tow pad can carry the load applied throughout the full arc possible in normal service; and

(C) The axis of the tow pads lie along the axis of the attached bridle leg when towing straight ahead; and

(ii) Towing fairleads if the tow pads are not located at the extreme bow and where:

(A) Closed fairleads or chocks are installed so the each leg of the tow bridle leads straight from the bridle apex through the center of the fairlead to the tow pad;

(B) The fairlead opening is round or oval, and large enough to pass all parts of the bridle in either direction but without allowing excessive lateral motion;

(C) All fairlead surfaces are ground smooth with a radius four times greater than the bar diameter of the chain, or the diameter of the synthetic or wire-rope used.

(f) Shackles. All shackles used must be:

(i) Rated with a breaking strength of 1.3 times the nominal breaking strength of the primary tow line;

(ii) Either round pin anchor or chain safety shackles with a locking nut secured by a nut and bolt, or cotter pin;

(iii) Forged or cast; and

(iv) Marked with the shackle's safe working load and rated or minimum breaking strength.

(g) Shackle and Flounder Plates. Shackle and flounder plates must be:

(i) Constructed of whole plates with no welding other than on assembly gussets and reinforcing rings; and

(ii) Triangular cast, forged, or fabricated steel equal to the ASTM-36 standard with all corners rounded.

(h) Wire Rope Records, Inspections and Maintenance. All wire rope towing equipment described in (b) through (d) of this subsection shall be inspected and maintained in accordance with the standards in U.S. Coast Guard Navigation and Vessel Inspection Circular (NVIC) 5-92, enclosure 1, part B.

(i) Chafing Protection. All towing equipment described in (b) through (e) of this subsection must be protected from chafing where the component contacts a surface that could cause wear during normal operation.

(j) Tow Winches. Tank barge tow winches must:

(i) Accept and hold a load equal to the breaking strength of the tow line without damage to the winch, its foundation, or brakes;

(ii) Have a brake on the main cable drum capable of holding the breaking strength of the inner most layer of the tow line without power to the winch;

(iii) Have a towing winch cable drum with a minimum diameter 12 times the diameter of the tow line;

(iv) Have a connection between the tow line bitter end and the winch cable drum with a holding capacity no greater than fifteen percent of the breaking strength of the tow line;

(v) Always have ten or more wraps of the tow line on the bottom layer of the cable drum while towing; and

(vi) Have control stations located where emergency release of the tow line does not endanger operating personnel.

(4) **Emergency Reconnection Equipment.** Owners and operators of tank barges and tow vessels transporting the barge shall employ emergency reconnection equipment for coastal hawser towing that meet the following standards.

(a) **Emergency Tow Line.** Tank barges must be equipped with an emergency tow line and components where the:

(i) Breaking strength of the tow line and components is 1.5 times the bollard pull of the tow vessel;

(ii) Tow line's bitter end is secured down the barge deck from bow to stern with break-away clips; and

(iii) Towing end of the tow line is attached to a trailing buoy with a five-inch polypropylene floating line.

(b) **Hook Retrieval Device.** Tank barge tow vessels must be equipped with a hook retrieval device slotted to lock into and pick up the tow bridle to be reconnected to the tow vessel's tow line.

(5) **Fenders.** Tank barge tow vessels must be equipped with a fender system capable of absorbing the impact of the tow vessel coming along side the tank barge and able to protect all parts of the tow vessel's bow and stern exposed to contact during normal operations.

(6) **Navigation Lights and Day Shapes.** Tank barges and tank barge tow vessels must be equipped with navigation lights and day shapes required by the U.S. Coast Guard. Tank barge electrical systems must comply with the American Bureau of Shipping and U.S. Coast Guard standards for the most volatile cargo allowed to be carried by the barge according to the barge's certificate of inspection or other classification document.

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.

PART 5 PLAN REVIEW AND APPROVAL

NEW SECTION

WAC 317-21-400 Review process. When an oil spill prevention plan is received, the office will determine whether the plan is complete or incomplete. If the plan is incomplete, the owner or operator will be notified. If the plan is complete, the office will review the plan for compliance with the best achievable protection standards described in this chapter.

NEW SECTION

WAC 317-21-410 Plan approval. An oil spill prevention plan that meets the standards described in Part 3 for tankers, or Part 4 for tank barges, will be approved as providing the best achievable protection of state waters and marine environments. The office may conditionally approve a plan that substantially meets the standards of this chapter. An approved plan is valid for five years unless:

(1) The owner or operator submitting the plan fails to update the plan in compliance with WAC 317-21-530;

(2) The owner or operator fails to submit an event report required under WAC 317-21-130, or safety report required under WAC 317-21-540;

(3) The owner or operator fails to comply with the financial responsibility requirements of chapter 88.40 RCW; or

(4) The policies, procedures, and practices described in the plan are not followed.

PART 6 COMPLIANCE

NEW SECTION

WAC 317-21-500 Administrative actions. (1) An owner or operator of a tank vessel who fails to comply with the requirements of this chapter, an approved or conditionally approved oil spill prevention plan, or any order issued by the office in administering this chapter may be subject to the following administrative actions:

(a) Plan disapproval;

(b) Restriction of the tank vessel's movements or operations in state waters, or both;

(c) Assessment of civil penalties under RCW 88.46.090;

(d) Referral for prosecution under RCW 88.46.080; or

(e) Denial of entry into state waters.

(2) If the administrator believes that the condition or operation of a tank vessel requires immediate administrative action to accomplish the purposes of this chapter, the administrator may issue an emergency order under RCW 88.46.070(3) requiring immediate compliance.

NEW SECTION

WAC 317-21-510 Administrative review. (1) An owner or operator may request review of an administrative action or order issued under WAC 317-21-500.

(2) A request for administrative review must be submitted in writing to the administrator within fourteen days from the date of receipt of the notice of administrative action. The owner or operator shall state the nature of the action and specific reasons supporting reversal or modification of the action.

(3) Within twenty days from receipt of a timely submitted request for review, the administrator may:

(a) Set a date by which the administrator will act on the request;

(b) Request more information from the owner or operator requesting the reconsideration;

(c) Set a date for a brief adjudicative hearing held in compliance with RCW 34.05.485 and 34.05.488.

(d) Rescind or modify the administrative action; or

(e) Deny the request.

(4) While the appeal is pending, the office may:

(a) Require the owner or operator to comply with the order or administrative action unless undue burden will be incurred;

(b) Stay the enforcement of the order or administrative action until the administrator has made a final determination or until all administrative and legal appeals are exhausted; or

(c) Condition operation of the owner's or operator's vessels in state waters until all appeals are exhausted.

NEW SECTION

WAC 317-21-520 Waivers. (1) The office may waive specific requirements under this chapter if an owner or operator submits an application for waiver demonstrating that complying with a requirement would be unduly burdensome and there is an alternative to strict compliance that meets the purposes for which the requirement was adopted.

(2) The office will waive application of this chapter to a vessel certified as a tank vessel if the owner or operator submits a waiver application stating that the vessel:

(a) Is not used, and will not be used, to carry oil in bulk as cargo or cargo residue; or

(b) Is not carrying oil in bulk as cargo and is destined to a marine facility for repairs.

(3) A waiver granted under this section is valid until the vessel is used to carry oil in bulk as cargo or cargo residue but in no instance for more than five years unless an extension is granted by the office prior to its expiration date.

(4) The office may condition a waiver and a waiver extension to ensure the best achievable protection of the state's natural resources and marine safety.

NEW SECTION

WAC 317-21-530 Plan updates. (1) If there is a significant change affecting an oil spill prevention plan, the vessel's owner or operator shall submit an amendment to the plan that reflects the change no later than thirty days after the change occurs.

(2) A significant change includes:

(a) An increase or decrease in manning levels;

(b) The owner or operator requires crew training and qualifications different from those described in the plan;

(c) The configuration of navigation systems, emergency towing systems, or tank barge towing equipment changes from that described in WAC 317-21-265 and 345;

(d) The vessel's class or classification society used changes;

(e) The flag nation of a vessel changes;

(f) The vessel's name changes; or

(g) The vessel's owner, operator, or manager changes.

(3) If necessary, owners and operators shall submit a plan update in the form of an amendment by January 30 of each year after the plan is approved. Amendments are necessary to reflect significant changes, changes in the owner or operators policies, procedures and practices, and other changes made during the previous year to make the plan current and accurate.

NEW SECTION

WAC 317-21-540 Advance notice of entry and safety reports. (1) A tank vessel owner or operator shall submit a notice of entry to the office by telephone or facsimile at least twenty-four hours before the vessel enters state waters.

(2) An owner or operator shall submit the following information in the notice of entry;

(a) The vessel's name, country of registry, type, call sign, and Lloyd's number;

(b) The name, mailing address, facsimile number, and telephone number for immediate contact of the owner or operator, or representative;

(c) The name of the person submitting the notice of entry;

(d) The name of the vessel master, chief engineer, and chief mate;

(e) The estimated date, time, and point of entry into state waters by the vessel;

(f) Intended berths or anchorages in Washington;

(g) Last and next port of call;

(h) The amount and type of bunker or cargo, or both, that will be transferred;

(i) Expected pilotage, tug escort, lightering, or other assistance beyond that required by federal or state law;

(j) The operational deficiencies of the vessel's primary and auxiliary navigation, propulsion, or cargo containment and transfer systems; and

(k) Identification of the contingency plan covering the vessel under Washington law.

(3) If an owner or operator is unable to provide notice twenty-four hours prior to arrival as required by subsection (1) of this section, the owner or operator shall give notice to the office as soon as practicable and shall include an explanation for the delay.

(4) The owner or operator shall submit a safety report with the advance notice of entry describing the condition and corrective action taken if the vessel experiences:

(a) Abnormality or malfunction of any steering, navigation, propulsion, or safety system;

(b) Breach of the hull or integrity of the structure of a cargo, bunker, bilge, or ballast tank that causes or may reasonably be expected to cause an oil spill or loss of stability;

(c) Damage from fire or explosion;

(d) An incomplete engineering or deck complement under United States law or regulation, or under the vessel's nation of registry; or

(e) Any condition that may adversely affect the safety of a vessel, property, or marine environments.

(5) If a tank vessel experiences any condition described in subsection (4) of this section after submitting an advance notice of entry, the office shall be notified by telephone or facsimile immediately after discovery of the condition. A written safety report describing the condition and corrective action taken must be submitted to the office no later than seventy-two hours after the initial report.

NEW SECTION

WAC 317-21-550 Inspections and investigations. (1) The office may inspect any tank vessel in port in state waters for compliance with the vessel's oil spill prevention plan. Boarding personnel shall have access to the:

(a) Deck and engineering logs;

(b) Voyage plans for the current voyage;

(c) Charts and other records used to fix the position of the vessel during transit and at anchor; and

(d) Personnel training records if maintained on board the vessel; and

(e) Other documents that demonstrate compliance with the vessel's plan.

(2) The documents described in subsection (1) of this section may not be destroyed unless the office notifies the vessel master that no inspection will take place and the

vessel has not experienced an event during its current voyage. The office may investigate an event that occurs in state waters for the purpose of determining compliance with this chapter.

(3) The office may require further information concerning a reported event as defined under WAC 317-21-130(3), a submitted safety report, or an oil spill prevention plan. If documents containing the information requested are not on board the vessel, the office will request the information from the owner or operator. Fourteen days after receipt of a written notice from the office, the owner or operator shall make available to the office at a place within the state of Washington copies of documents containing the information requested.

NEW SECTION

WAC 317-21-560 Exceptional compliance. (1) *Compliance Incentives.* If an owner or operator of a tank vessel demonstrates exceptional compliance with the best achievable protection standards described in this chapter, the office may:

(a) Reduce the level of inspection for tank vessels covered by the plan;

(b) Waive specific requirements that the owner or operator demonstrates as obsolete because of a new procedure or technology employed on vessels covered by the plan; or

(c) Take other actions as appropriate.

(2) *Exceptional compliance.* For the purposes of this section, "exceptional compliance" means the owner or operator:

(a) Complies with the requirements of this chapter;

(b) Implements policies, procedures, or practices which may differ from the standards of this chapter but that meet or exceed the purpose for which the standard was adopted; and

(c) Demonstrates a commitment to safe vessel operations verified through inspections by the office of the vessels covered by the plan.

NEW SECTION

WAC 317-21-900 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 317-21-910 Effective date. This chapter shall take effect one hundred eighty days after the effective filing date of the order adopting this chapter.

REPEALER

The following chapter of the Washington Administrative Code is repealed on the effective date of this chapter:

Chapter 317-20 WAC Oil spill prevention plans.

WSR 95-02-008 PERMANENT RULES COLUMBIA RIVER GORGE COMMISSION

[Filed December 22, 1994, 4:35 p.m., effective January 23, 1995]

Date of Adoption: December 13, 1994.

Purpose: Rule 350-70-060, the proposed language amends the rule which provides for a special review process in the commission's appeal rule for decisions under commission land use ordinances. The amendment clarifies the process and makes a change whereby the final decision no longer rests with the director but with the commission. The amendment provides for a contested case hearing for the commission to rule on the recommendations made by the director.

Citation of Existing Rules Affected by this Order: Amending 350-70-060.

Statutory Authority for Adoption: RCW 43.97.015.

Other Authority: 16 USC § 544.

Pursuant to notice filed as WSR 94-20-127 [94-20-126] on October 5, 1994.

Effective Date of Rule: January 23, 1995.

December 20, 1994

Jan Brending

Rules Coordinator

COLUMBIA RIVER GORGE COMMISSION

Chapter 350

Division 70

Appeals From Decisions Under Gorge Commission Ordinances

Amended December 13, 1994

350-70-000. Purpose.

The purpose of this division is to define the process and standards used by the Columbia River Gorge Commission in hearing appeals from decisions relating to the implementation of the Columbia River Gorge National Scenic Area Act ("National Scenic Act" or "Act"). The rule applies to appeals from decisions by the Executive Director under ordinances adopted by the Gorge Commission.

350-70-010. Authority.

The National Scenic Act authorizes appeals to the Gorge Commission by a person or entity adversely affected by a final action or order, and this includes decisions by the Executive Director under a land use ordinance for a county adopted by the Gorge Commission.

350-70-020. Scope.

Scope of Rules: All proceedings commenced by Notice of Intent to Appeal and Petition shall be governed by these rules.

Appeals commenced by a Notice of Appeal filed under the Final Interim Guidelines shall continue to be governed by Commission Rule 350-20 as adopted December 1, 1987, and the Final Interim Guidelines.

350-70-030. Application.

These rules are intended to promote the efficient review of land use decisions in accordance with the National Scenic Act while affording all interested persons reasonable notice and opportunity to intervene, reasonable time to prepare and submit their cases, and a full and fair hearing. The rules shall be interpreted to carry out these objectives and to promote justice.

350-70-040. Definitions.

In these rules, unless the context or subject matter requires otherwise:

- (1) "Applicant" means the person who requested that the Executive Director of the Gorge Commission take an action which resulted in a land use decision.
- (2) "Commission" means the Columbia River Gorge Commission or any member thereof.
- (3) "Counties" means Multnomah, Hood River and Wasco Counties, Oregon, and Clark, Skamania, and Klickitat Counties, Washington.
- (4) "Days" means calendar days.
- (5) "Executive Director" means the director of the Gorge Commission.
- (6) "File" means to deliver to Commission offices by personal delivery or by mail, not by fax. To be considered filed, a document must be received at Commission offices by 5:00 p.m.
- (7) "Final decision": A decision is final when it is reduced to writing and bears the signature of the Executive Director of the Gorge Commission.
- (8) "Land use decision" means a final decision by the Executive Director based on the National Scenic Act.
- (9) "Notice" means the Notice of Intent to Appeal and Petition and refers to the document which must be filed with the Commission in order to begin a review proceeding.
- (10) "Party" means the petitioner, the applicant if different from the petitioner, the Executive Director, and any person who intervenes.
- (11) "Transmit" means to send with the United States Postal Service by first class mail or to deliver in person.

350-70-050. Notice of Intent to Appeal and Petition.

- (1) Filing: The Notice of Intent to Appeal and Petition from a decision by the Director shall be filed with the Commission on or before the 30th day after the date the decision sought to be reviewed becomes final. A Notice filed thereafter shall not be deemed timely filed and the appeal shall be dismissed.
- (2) Service of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be filed with the Commission and served on all persons identified in the Notice as required by subsection (3)(f) of this rule on or before the date the Notice of Intent to Appeal and Petition is required to be filed.
- (3) Contents of Notice of Intent to Appeal and Petition: The Notice of Intent to Appeal and Petition shall be substantially in the form set forth in Exhibit 1 and shall contain:
 - (a) A caption which sets forth the name(s) of the person(s) filing the Notice, identifying the person(s) as

petitioner(s), and Executive Director, identifying the Executive Director as respondent;

- (b) Below the caption the heading "Notice of Intent to Appeal and Petition";
- (c) The full title of the decision to be reviewed as it appears on the final decision;
- (d) The date the decision to be reviewed became final;
- (e) A concise description of the decision to be reviewed;
- (f) The name, address and telephone number of each of the following:
 - (A) The Petitioner. If the petitioner is not represented by an attorney, the petitioner's name, address and telephone number shall be included. If an attorney represents the petitioner, the attorney's name, address and telephone number shall be substituted for that of the petitioner. If two or more petitioners are unrepresented by an attorney, one petitioner shall be designated as the lead petitioner.
 - (B) The Executive Director and the Director's legal counsel;
 - (C) The applicant, if any (and if other than the petitioner). If an applicant was represented by an attorney before the Executive Director, the applicant's address and telephone number may be omitted and the name, address and telephone number of the applicant's attorney shall be included;
 - (D) Any other person to whom written notice of the land use decision was mailed as shown on the Executive Director's records. The telephone number may be omitted for any such person.
 - (g) A statement advising all persons, other than the Executive Director, that in order to participate in the review proceeding a person must file a motion to intervene pursuant to 350-70-170.
 - (h) Proof of service upon all persons required to be named in the Notice. See Exhibit 1.

(4) Filing Fee and Deposit for Costs: A filing fee and deposit for costs may be charged by the Columbia River Gorge Commission.

350-70-060. Special Review Process.

- (1) In any development review decision by the Executive Director under [any] a rule adopting ordinances, where the applicant contends the result eliminates all beneficial use of the property, the applicant must request special review [reconsideration of the decision of the Executive Director and special review] as follows:
 - (a) [The request for reconsideration shall be in writing.] Make the request in writing.
 - (b) [The request for reconsideration shall set forth all pertinent facts in support of the applicant's position.] Set out the pertinent portions of the ordinance that apply;
 - (c) [The request for reconsideration shall be accompanied by copies of all relevant documents (maps, deeds, easements, reports, etc.) that support the position taken by the applicant.] Describe how the ordinance impacts the use of the property;
 - (d) [The request for reconsideration shall be served on the Executive Director and all parties as a separate section of the Notice of Intent to Appeal and Petition from the Executive Director's decision along with proof of service.] Attach copies of any documents (maps, deeds, easements, etc.) that are relevant; and

(e) Explain why the requested use must be allowed to provide economic or beneficial use of the property.

(f) The request for special review shall be served on the Executive Director and all parties, within 10 working days of receipt of the decision.

(g) All other parties shall have the opportunity to specifically respond to the petitioner's request and any submission must be served and filed within 10 working days of receipt of the request.

(2) The Director, on receipt of a request for reconsideration, shall take the following steps:

(a) [Review the request for reconsideration.] Evaluate the request for special review.

[(b) Issue a written decision that addresses the specific portions of the request related to use of the property within 30 days of receipt of the request for reconsideration.] Take one of the following steps:

(1) Where appropriate, recommend options for use of the property that are consistent with the ordinance, or

(2) Where the Director finds that enforcement of the land use ordinance will deprive the landowner of all economic or beneficial use of the property, the Director shall recommend the Commission allow a use for the property. The economic or beneficial use recommended shall be the use that on balance best protects the affected resources. This section applies:

(A) if the Forest Service or the federal government does not provide just compensation for a Special Management Area designation it made; or

(B) for a General Management Area designation made by the Gorge Commission.

(c) [Specify the factual or legal principles relied on in support of the written decision.] Include in the recommendation proposed findings of fact. This shall be completed within 30 days of receipt of the request for special review; and

(d) [Where appropriate, propose options for use for the property owner, or other options available to the property owner.] Specify the factual and/or legal principles relied on in support of the recommendations.

[(e) Approve, where appropriate, based on the specific facts and circumstances of the case, a use to ensure the property is not subject to what would otherwise constitute a taking if the Forest Service or the federal government does not provide just compensation for a designation it made.]

[(f) The time period for submission of the Request for Review to the Gorge Commission shall not begin to run until the day after the decision on the request for reconsideration is issued.]

[(g) The applicant and anyone who intervened may pursue the appeal process below once the special review process is completed.]

(3) The time period for submission of the Request for Review to the Gorge Commission shall not begin to run until the day after the Executive Director completes the recommendation.

(4) The applicant and anyone who intervened may continue the appeal process below once the special review process is completed.

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

Reviser's note: The 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.

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.

350-70-070. Record.

(1) Contents of Record: The record shall include the following:

(a) The final decision including findings of fact and conclusions of law of the Director's decision;

(b) All evidence, exhibits, maps, documents or other written materials included as part of the record during the course of the Executive Director's proceeding;

(c) Minutes of any meetings conducted by the Executive Director as required by law.

(2) Transmittal of Record: The Executive Director shall within 30 days after service of the Notice, transmit to the Commission the original or a certified copy, and two copies of the record of the proceeding under review. The Executive Director may, however, retain any large maps or documents which are difficult to duplicate, until the date of the hearing.

(3) Service of Record: Contemporaneously with transmittal, the Executive Director shall serve a copy of the record, exclusive of large maps and other documents which are difficult to duplicate, on the petitioner or the lead petitioner, if one is designated, and all other parties.

(4) Specifications of Record:

(a) The record shall:

(A) Be filed in a suitable folder; the cover shall bear the title of the case as it appears in the Notice, and the Commission's numerical designation for the case, and shall indicate the numerical designation given the land use decision by the Executive Director;

(B) Begin with a table of contents, listing each item contained therein, and the page of the record where the item begins (see Exhibit 2), and listing each large map or document retained by the Executive Director under subsection (2) of this rule;

(C) Be securely fastened;

(D) Have pages numbered consecutively, with the page number at the bottom right-hand corner of each page;

(E) Be arranged in inverse chronological order, with the most recent item on top.

(b) A record which does not conform to the preceding requirements shall not be accepted by the Commission.

350-70-080. Objections to the Record.

(1) Before filing an objection to the record, a party shall attempt to resolve the matter with the Executive Director's legal counsel and the other parties. If the Executive Director amends the record in response to an objection, the date the amendment is received by the Commission shall be considered the date the record is received for the purpose of computing time limits as required by these rules.

(2) An objection to the record shall be filed with the Commission within 10 days following service of the record on the person filing the objection. Objections may be made on the following grounds:

(a) The record does not include all materials included as part of the record during the proceedings before the Executive Director. The omitted item(s) shall be specified, as well as the basis for the claim that the item(s) are part of the record.

(b) The record contains material not included as part of the record during the proceedings before the Executive Director. The item(s) not included as part of the record during the proceedings before the Executive Director shall be specified, as well as the basis for the claim that the item(s) are not part of the record.

(c) The minutes or transcripts of meetings or hearings are incomplete or do not accurately reflect the proceedings.

(3) An objection on grounds that the minutes or transcripts are incomplete or inaccurate shall demonstrate with particularity how the minutes or transcripts are defective and shall explain with particularity why the defect is material. Upon such demonstration, the Commission shall require the Executive Director to produce additional evidence to prove the accuracy of the contested minutes or transcripts. If the evidence regarding contested minutes is an audiotape recording, a transcript of the relevant portion shall be submitted.

(4) The Commission or its staff may conduct a telephone conference with the parties to consider and resolve any objections to the record.

(5) If an objection to the record is filed, the time limits for all further procedures under these rules shall be suspended. When the objection is resolved, the Commission shall issue a letter or order declaring the record complete and setting forth the schedule for subsequent events. Unless otherwise provided by the Commission, the date of the Commission's letter or order shall be deemed the date of receipt of the record for purposes of computing subsequent time limits.

350-70-090. Request for Review.

(1) Filing and Service of Request: The Request for Review shall be filed with the Commission within 30 days after the date the record is received by the Commission. The Request shall also be served on the Executive Director and any party who has filed a motion to intervene. Failure to file a Request for Review within the time required by this section shall result in dismissal of the appeal and forfeiture of the filing fee and deposit for costs to the Gorge Commission.

(2) Specifications of Request: The Request for Review shall

(a) Begin with a table of contents;

(b) Not exceed 50 pages, exclusive of appendices, unless permission for a longer petition is given by the Commission. If a Request for Review exceeding the 50 page limit is filed without permission, the Commission shall notify the author, and a revised brief satisfying the 50 pages limit shall be filed within three (3) days of notification by the Commission.

(c) Have a blue cover page, stating the full title of the proceeding, and the names, addresses and telephone numbers of all parties unrepresented by attorney. If a party is represented by an attorney, the name, address and telephone number of the attorney shall be substituted for the party. If there is more than one petitioner, the cover page shall specify the petitioner(s) are filing the Request. An intervenor shall be designated as either petitioner or respondent.

(d) Be typewritten, in pica type, and double spaced;

(e) Be signed on the last page by the author.

(3) Contents of Request: The Request for Review shall:

(a) State the facts that establish petitioner's standing;

(b) Present a clear and concise statement of the case, in the following order, with separate section headings:

(A) The nature of the land use decision and the relief sought by petitioner;

(B) A summary of the arguments appearing under the assignments of error in the body of the Request;

(C) A summary of the material facts. The summary shall be in narrative form with citations to the pages of the record where the facts alleged can be found.

(c) State why the challenged decision is a land use decision subject to the Commission's jurisdiction;

(d) Set forth each assignment of error under a separate heading. Where several assignments of error present essentially the same legal questions, the argument in support of those assignments of error shall be combined;

(e) Contain a copy of the challenged decision, including any adopted findings of fact and conclusions of law;

(f) Contain a copy of any management plan provision, comprehensive plan provision, ordinance or other provision of local law cited in the request, unless the provision is quoted verbatim in the Request.

350-70-100. Respondent's Submission.

(1) Filing and Service of Submission: Respondent's submission and/or brief shall be filed within 30 days after the Request for Review is received by the Commission. A copy of the respondent's submission shall be served on the petitioner or lead petitioner and all intervenors.

(2) Specifications of Submission: Respondent's submission shall conform to the specifications of the petition for review, except that it shall have a red cover. If there is more than one respondent, the cover page shall specify which respondent is filing the brief.

(3) Contents of Submission:

(a) The respondent's submission shall follow the form prescribed for the Request for Review. The respondent shall specifically accept the petitioner's statement of the case or shall cite any alleged omissions or inaccuracies therein and may state additional relevant facts or other matters. The statement shall be in narrative form with citations to the pages of the record where support for the facts alleged are found.

(b) Respondent shall accept or challenge petitioner's statement of the Commission's jurisdiction and petitioner's statement of standing. The basis for any challenge shall be stated. If respondent contends that the facts alleged by petitioner in support of standing are not true, respondent shall specify which allegations are contested.

350-70-110. Reply Brief.

A reply brief shall not be filed.

350-70-120. Prehearing Conference.

The Commission, on its own motion or at the request of any party, may call a prehearing conference to consider:

- (1) Simplification of the issues;
- (2) The possibility of obtaining admissions of fact and documents which will avoid unnecessary proof;
- (3) Limitation of the number of witnesses;
- (4) The form and substance of any prehearing order;
- (5) Such other matters as may aid in the disposition of the appeal.

350-70-130. Proposed Prehearing Order.

The Commission with or without a prehearing conference, may require that the parties prepare and sign a proposed prehearing order to be filed with the Commission on or before a date specified by the Commission. The order shall contain:

- (1) A statement of contentions of law of each party;
- (2) A concise statement of all contentions of fact to be proved by each party;
- (3) A statement of all agreed facts;
- (4) A list of witnesses and a summary of their testimony;
- (5) A list of exhibits and a statement of the contents of each;
- (6) Such other matters as the Commission may require in order to expedite the hearing and appeal.

350-70-140. Hearing.

(1) The hearing before the Commission shall be "de novo" but shall include the record submitted by the Executive Director.

(2) Conduct of hearing:

(a) The hearing shall be conducted in the following order:

(A) The petitioner shall present its evidence including that of any witnesses;

(B) The other party(ies) shall have the opportunity to present evidence disputing that of the petitioner;

(C) The petitioner shall present rebuttal evidence as permitted by the Commission, limited to specific issues;

(b) Any witness is subject to cross examination by opposing parties;

(c) Any member of the Commission may question any witness;

(d) The burden of presenting evidence in support of a fact or proposition rests on the proponent of the fact or proposition;

(e) The Commission may continue a hearing and may set time limits for any hearing;

(f) Exhibits shall be marked to identify the party offering the exhibits. The exhibits shall be preserved by the Commission as part of the record.

(3) Evidentiary Rules:

(a) Evidence of a type commonly relied upon reasonably prudent person in conduct of their serious affairs shall be admissible.

(b) Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(c) All evidence not objected to, shall be received by the Commission, subject to the Commission's power to exclude irrelevant, immaterial or unduly repetitious matter.

(d) Evidence objected to may be received by the Commission. Rulings on the admissibility of such evidence, if not made at the hearing, shall be made at or before the time a final order is issued.

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.

350-70-150. Depositions.

On petition of any party, the Commission may order testimony of any witness to be taken by deposition in the same manner prescribed for depositions in civil actions. Depositions may also be taken by the use of audio or audio visual recordings. The petition for deposition shall set forth:

(1) The name and address of the witness whose testimony is desired;

(2) A showing of relevance and materiality of the testimony;

(3) A request for an order that the testimony of the witness be taken.

350-70-160. Subpoenas.

The Commission shall issue subpoenas to any party to the appeal upon written request and upon a showing that the witness or the documents to be subpoenaed will provide relevant evidence generally not available without subpoena. Subpoenas may also be issued under the signature of the attorney of record of a party. Witnesses appearing pursuant to subpoena, other than parties or employees of the Commission, shall be tendered fees and mileage as prescribed by law for witnesses in civil actions. The party requesting the subpoena shall be responsible for service of the subpoena and tendering the witness and mileage fees to the witness.

350-70-170. Intervention.

(1) Standing to Intervene: The applicant and any person who appeared before the Executive Director may intervene in a review proceeding before the Commission. Status as an intervenor shall be recognized by letter or order of the Commission when a motion to intervene is filed.

(2) Motion to Intervene: In the interests of promoting timely resolution of appeals, a motion to intervene shall be filed within 10 days after the Notice of Intent to Appeal and Petition is filed pursuant to 350-70-050. The motion to intervene (exhibit 3) shall:

(a) State whether the party is intervening on the side of the petitioner or the respondent;

(b) State the facts which show the party is entitled to intervene, supporting the statement with affidavits, citations to the record or other proof;

(c) Be served upon the Commission and all parties.

(3) Intervenor's Submission:

(a) If intervention is sought as a petitioner, the submission (or brief) shall be filed within the time limit for filing the Request for Review, and shall satisfy the requirements for a Request for Review in 350-70-090.

(b) If intervention is sought as a respondent, the submission (or brief) shall be filed within the time for filing a respondent's brief and shall satisfy the requirements for a respondent's brief in 350-70-100.

(4) Objections to a motion to intervene shall be filed within 7 days of the filing of the motion.

350-70-180. Amicus Participation.

(1) A person or organization may appear as amicus only by permission of the Commission on written motion. The motion shall set forth the specific interest of the movant and state reasons why a review of relevant issues would be significantly aided by participation of the amicus. A copy of the motion shall be served on all parties to the proceeding.

(2) Appearance as amicus shall be by submission and/or brief only. An amicus brief shall be subject to the same rules as those governing briefs of parties to the appeal and shall be filed within the time required for filing respondent's brief. No filing fee is required. An amicus brief shall have a green cover.

(3) An amicus brief shall be submitted at the time the respondent's brief is due.

350-70-190. Consolidation.

The Commission, at the request of any party or on its own motion, may consolidate two or more proceedings, provided the proceedings seek review of the same or closely related land use decision(s).

350-70-200. Extensions of Time.

(1) In no event shall the time limit for the filing of the Notice of Intent to Appeal and Petition be extended.

(2) In no event shall the time limit for the filing of the Request for Review be extended without good cause shown, written consent by all parties and approval of the Gorge Commission.

(3) In the event the Commission extends the deadline for issuance of its final order without consent of the parties, it shall enter the specific findings to explain such action.

350-70-210. Stays.

(1) A motion for a stay of a land use decision shall include:

(a) A statement setting forth movant's right to standing to appeal the decision;

(b) A statement explaining why the challenged decision is subject to the Commission's jurisdiction;

(c) A statement of facts and reasons for issuing a stay, demonstrating a colorable claim of error in the decision and specifying how the movant will suffer irreparable harm if a stay is not granted;

(d) A suggested expedited briefing schedule;

(e) A copy of the decision under review and copies of all ordinances, resolutions, plans or other documents necessary to show the standards applicable to the decision under review.

(2) A copy of a motion for stay shall be served on the Executive Director and the applicant for the land use decision, as well as any other parties, if any, on the same day the motion is filed with the Commission.

(3) Unless otherwise ordered by the Commission, a response to a motion for a stay of a land use decision shall be filed within 10 days after the motion is filed and shall set forth all matters in opposition to the motion and any facts showing any adverse effect, including an estimate of any monetary damages that will accrue if a stay is granted.

(4) The Commission shall base its decision on the stay, including the right to a stay, or conditions of any stay order, upon the motion presented. Documents may be attached to the motion in the form of affidavits, maps or other materials, or presented at a hearing which may be convened at the discretion of the Commission and follow the process in 350-70-140.

350-70-220. Final Order of Commission.

(1) An Order of the Commission is final when the cover page of the order containing the caption of the appeal:

(a) States "Final Opinion and Order";

(b) Contains findings of fact and conclusions of law or incorporates them from the record below.

(c) Indicates whether the decision being reviewed is dismissed, affirmed, reversed or remanded;

(d) Contains the date of the final order; and

(e) Is date stamped by the Commission.

(2) The order shall be mailed to all parties.

(3) When an order of the Commission becomes final it shall be made available to interested members of the public. The Commission may charge a reasonable fee for copies of its final orders or other orders furnished to members of the public.

(4) Notwithstanding subsections (1)(a) and (b) of this section, an order granting a motion to dismiss an appeal is a final order.

350-70-230. Reversal or Remand of Land Use Decisions.

(1) The Commission shall reverse a land use decision when:

(a) The Executive Director exceeded his/her jurisdiction;

(b) The decision is unconstitutional;

(c) The decision violates a provision of applicable law and is prohibited as a matter of law; or

(d) The decision was clearly erroneous or arbitrary and capricious.

(2) The Commission shall remand a land use decision for further proceedings when:

(a) The findings are insufficient to support the decision;

(b) The decision is not supported by substantial evidence in the whole record;

(c) The decision is flawed by errors that prejudice the substantial rights of the petitioner(s); or

(d) The decision improperly construes the applicable law.

EXHIBIT 1
(350-70-050)

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark,)
)
Petitioner,)
)
vs.)
)
Executive Director,)
)
Respondent.)

CRGC No.

NOTICE OF INTENT TO APPEAL AND PETITION

I.

Notice is hereby given that petitioner intends to appeal that land use decision of respondent entitled [INDICATE TITLE OF LAND USE DECISION], which became final on [INDICATE DATE] and which involves [SET FORTH A BRIEF STATEMENT OF THE NATURE OF THE DECISION]

II.

Petitioner, Jane Clark, is represented by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Respondent, Executive Director, has as its mailing address and telephone number: [INDICATE MAILING ADDRESS AND TELEPHONE NUMBER] and has, as its legal counsel: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER].

III.

Applicant, John Developer, was represented in the proceeding below by: [INDICATE NAME, ADDRESS AND TELEPHONE NUMBER OF ATTORNEY].

Other persons mailed written notice of the land use decision by Executive Director, as indicated by its records in this matter, include: [INDICATE NAMES, ADDRESSES AND TELEPHONE NUMBER OF ALL PERSONS WHOM THE EXECUTIVE DIRECTOR'S RECORDS INDICATE WERE MAILED WRITTEN NOTICE OF THE LAND USE DECISION. THE TELEPHONE NUMBERS OF SUCH PERSONS MAY BE OMITTED].

NOTICE:

Anyone designated in paragraph III of this Notice who desires to participate as a party in this case before the Columbia River Gorge Commission must file with the Commission a Motion to Intervene in this proceeding as required by CR 350-70-130.

Petitioner (each petitioner must sign)

or

Attorney for Petitioner(s)

CERTIFICATE OF SERVICE

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this Notice of Intent to Appeal and Petition on all persons listed in paragraphs II and III of this Notice pursuant to CR 350-70-050(2) by (a) first class mail or (b) personal delivery. [INDICATE WHICH]

Dated: _____

Signature

EXHIBIT 2
(350-70-070)

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EXHIBIT 3
(350-70-1730)

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

Jane Clark,)
)
Petitioner,)
)
vs.)
)
Executive Director,)
)
Respondent.)

CRGC No.

MOTION TO INTERVENE

I.

John Smith moves to intervene on the side of (a) Petitioner or (b) Respondent [INDICATE WHICH] in the above-captioned appeal. Mr. Smith's (or his attorney's) address and phone number are as follows: [INDICATE ADDRESS AND PHONE NUMBER].

II.

The facts establishing movant's right to intervene are as follows: [SET FORTH STATEMENT OF FACTS].

III. [OPTIONAL]

In support of this motion, John Smith relies on the attached affidavit, Memorandum of Law or both.

Date

John Smith

or

Barbara Neil, Attorney for
John Smith

[Add Certificates of Filing and Service on separate page. See forms in Exhibits 4 and 5.]

PERMANENT

EXHIBIT 4

CERTIFICATE OF FILING
[For Document Other Than
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I filed the original of this [IDENTIFY DOCUMENT], together with [INDICATE NUMBER OF COPIES] copies, with the Columbia River Gorge Commission, 288 E. Jewett Blvd., P.O. Box 730, White Salmon, WA 98672, by (a) first class mail or (b) personal delivery [INDICATE WHICH].

Dated: _____

Signature

EXHIBIT 5

CERTIFICATE OF SERVICE
[For Document Other Than
Notice of Intent to Appeal]

I hereby certify that on [INDICATE DATE], I served a true and correct copy of this [IDENTIFY DOCUMENT] by (a) first class mail or (b) personal delivery [INDICATE WHICH] on the following persons: [LIST NAME AND ADDRESS OF EACH PARTY OR THE PARTY'S ATTORNEY].

Dated: _____

Signature

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.

WSR 95-03-001
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed January 4, 1995, 1:15 p.m.]

Date of Adoption: January 4, 1995.

Purpose: Further define and clarify the application of the portability statutes, chapter 41.54 RCW.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-113-010, 415-113-020, 415-113-040, 415-113-050 and 415-113-060; and amending WAC 415-113-030.

Statutory Authority for Adoption: RCW 41.50.050.

Pursuant to notice filed as WSR 94-19-101 on September 21, 1994.

Changes Other than Editing from Proposed to Adopted Version: The changes between the proposed rule and the adopted rule consist of presenting the same information in a "plain English" format.

Effective Date of Rule: Thirty-one days after filing.

January 4, 1995
Sheryl Wilson
Director

NEW SECTION

WAC 415-113-005 Purpose and scope. (1) **Purpose.** The rules adopted in this chapter further define and clarify the application of the portability statutes, chapter 41.54 RCW. Chapter 41.54 RCW allows:

(a) Service in dual member systems to be combined to determine service retirement eligibility; and

(b) Compensation earned in one dual member system to be used to calculate a retirement allowance in another designated system.

(2) **Scope.** This chapter shall apply to the retirement systems listed in RCW 41.50.030, except for LEOFF Plan I. This chapter must be read to be consistent with the statutory provisions of chapter 41.54 RCW and the statutory provisions governing the dual member systems. These rules may be used by the first class city retirement systems but do not mandatorily apply to them. These rules do apply to all dual member benefits calculated and paid by the department, even if one of the member's systems is a first class city retirement system.

DEFINITIONS

AMENDATORY SECTION (Amending WSR 90-22-038, filed 11/1/90, effective 12/2/90)

WAC 415-113-030 Definitions for purposes of WAC ((415-113-010 through 415-113-050)) 415-113-035 through 415-113-100. ((1) "Additional costs" means any benefits incurred by the DRS administered systems for member retirement allowances that are the direct result of portability under chapter 192, Laws of 1990 (HB 1323).

(2) "Dual member" means dual member as defined in chapter 192, Laws of 1990 (HB 1323).

(3) "Portability" means that a person can be a dual member of both a city retirement system or systems and one or more of the DRS administered retirement systems for the purpose of combining service credit for determining eligibility from each system if the person meets the requirements of dual membership as defined in chapter 192, Laws of 1990 (HB 1323).

(4) "Base salary" means the definition used in RCW 41.54.010(1).

(5) "First class cities" means the cities of Seattle, Spokane and Tacoma.

(6) "Average compensation" means respectively, final compensation as defined in RCW 41.28.010 and 41.44.030(14); average final compensation as defined in RCW 41.32.010 and 41.40.010; average earnable compensation as defined in RCW 41.32.498; and average final salary as defined in RCW 43.43.120.

(7) "City retirement system" means the retirement systems for the cities of Seattle, Spokane and Tacoma.

(8) "DRS administered systems" means the retirement systems established under chapters 41.32 (Teachers' retirement system), 41.40 (Public employees' retirement system), 41.44 (State wide city employees' retirement) and 43.43 RCW (Washington state patrol).

(9) "DRS benefits" means retirement benefits earned solely through employment with a DRS administered retirement systems.

PERMANENT

(10) "Early retirement" means retirement at the first age when a unreduced benefit is available, absent portability, as defined in RCW 41.32.480, 41.32.765(2), 41.40.180(3), 41.40.630(2), 41.44.140, and 43.43.250(2).

(11) "Accumulated employee contributions" means all member contributions and interest to the respective DRS administered systems as defined in RCW 41.04.445(4).) All definitions in RCW 41.54.010 apply to terms used in this chapter. Other terms relevant to the administration of chapter 41.54 RCW are defined in this chapter at WAC 415-113-0301 through 415-113-0310.

NEW SECTION

WAC 415-113-0301 Accumulated contributions—Definition. "Accumulated contributions" means all member contributions to a system plus interest as determined by the director.

NEW SECTION

WAC 415-113-0302 Average compensation—Definition. "Average compensation" means the compensation used by a particular retirement system to calculate a dual member's service retirement allowance. The actual meaning of the term varies depending upon the retirement system. With respect to each dual member system, "average compensation" means:

- (1) **First class city retirement systems:** Final compensation as defined in RCW 41.28.010;
- (2) **State-wide cities retirement systems:** Final compensation as defined in 41.44.030(14);
- (3) **TRS:**
 - (a) Plan I: Average earnable compensation as defined in RCW 41.32.497 and 41.32.498;
 - (b) Plan II: Average final compensation as defined in RCW 41.32.010(30);
- (4) **PERS:** Average final compensation as defined in RCW 41.40.010(17);
- (5) **LEOFF Plan II:** Final average salary as defined in RCW 41.26.030 (12)(b); and
- (6) **WSPRS:** Average final salary as defined in RCW 43.43.120.

NEW SECTION

WAC 415-113-0303 Dual member system—Definition. "Dual member system" means the state and city retirement systems admitted to participate under chapter 41.54 RCW. These systems are:

- (1) PERS Plans I and II;
- (2) TRS Plans I and II;
- (3) LEOFF Plan II;
- (4) WSPRS;
- (5) State-wide city employees' retirement system; and
- (6) The first class city retirement systems.

NEW SECTION

WAC 415-113-0304 First class city retirement systems—Definition. "First class city retirement systems" means the retirement systems for the non-LEOFF member employees of the cities of Seattle, Spokane and Tacoma authorized by chapter 41.28 RCW.

NEW SECTION

WAC 415-113-0305 Member participant—Definition. (1) For all dual member systems administered by the department other than TRS Plan I "member participant" means a person who is employed for compensation in a dual member system qualifying position and is admitted into the membership of the system.

(2) For TRS Plan I, "member participant" includes persons meeting the definition of subsection (1) of this section and also means a member who is not employed for compensation but has accumulated contributions standing to his or her credit with TRS.

(3) For the first class city systems, this definition may not apply, see WAC 415-113-005. If you have a question, you should contact the appropriate first class city system.

NEW SECTION

WAC 415-113-0306 Multiple system benefit—Definition. "Multiple system benefit" means service retirement allowances from two or more dual member systems calculated under chapter 41.54 RCW.

NEW SECTION

WAC 415-113-0307 Multiple system participant—Definition. "Multiple system participant" means a person who is a participant in two or more dual member systems.

NEW SECTION

WAC 415-113-0308 Multiple system retiree—Definition. "Multiple system retiree" means a person who elects to retire under the provisions of chapter 41.54 RCW.

NEW SECTION

WAC 415-113-0309 Nonmember participant—Definition. (1) "Nonmember participant," means a person who is no longer employed in a dual member system qualifying position but has not withdrawn his or her accumulated employee contributions.

(2) This definition does not apply to TRS Plan I. A TRS Plan I member who meets the criteria of subsection (1) of this section is a member participant, see WAC 415-113-0307.

(3) This section applies only to the retirement systems listed in RCW 41.50.030.

NEW SECTION

WAC 415-113-0310 System acronyms—Definition. The acronyms used in this chapter mean:

- (1) "LEOFF Plan II" means Law Enforcement Officers' and Fire Fighters' Retirement System Plan II.
- (2) "PERS Plan I" means Public Employees' Retirement System Plan I.
- (3) "PERS Plan II" means Public Employees' Retirement System Plan II.
- (4) "TRS Plan I" means Teachers' Retirement System Plan I.
- (5) "TRS Plan II" means Teachers' Retirement System Plan II.

(6) "WSPRS" means Washington State Patrol Retirement System.

ELIGIBILITY FOR DUAL MEMBER BENEFITS

NEW SECTION

WAC 415-113-041 Am I a dual member? You must meet all of the following criteria to be a dual member:

(1) **You must be a member of a dual member system.** You must be a current member participant in at least one dual member system to be a dual member. You may have established dual member status if you are or were a member participant of a dual member system on or after:

(a) July 1, 1988, for current or former members of PERS, TRS, SCERS or WSPRS;

(b) July 25, 1993, for current or former members of LEOFF Plan II; or

(c) January 1, 1994, for current or former members of a first class city retirement system;

(2) **You must be a former or current member of another dual member system.**

(3) **You must not have been retired for service from a retirement system.** You are not a dual member if you have ever been retired for service from any retirement system administered by the department of retirement systems or a first class city retirement system.

(4) **You must not be in receipt of a disability benefit from a dual member system.** If you are receiving a disability retirement allowance or disability leave benefits from a dual member system or LEOFF Plan I, you cannot be a dual member.

(a) If you have received a lump sum disability benefit from PERS Plan II, TRS Plan II or LEOFF Plan II you are in receipt of a disability benefit unless the department has found that you are no longer disabled.

(b) You are not receiving a disability retirement allowance or disability leave benefits if you:

(i) Previously received disability benefits and the department has subsequently found that you are no longer disabled, and has terminated your disability benefit; or

(ii) Retired for disability from service from WSPRS.

Example 1: A former PERS Plan I member who has never been retired and becomes a member participant in TRS Plan II through employment with a TRS employer becomes a dual member.

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4).

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

NEW SECTION

WAC 415-113-042 Can I terminate my status as a dual member? Termination of dual member status—Reestablishing dual member status. (1) **If you are not a member, you are not a dual member.** If you are no longer a member participant in any dual member system, you are no longer a dual member. If you later become a

member of a dual member system, you again become a dual member.

Example 2: Upon separation from TRS Plan II eligible employment, the person in Example 1 in WAC 415-113-041 is no longer a member of TRS Plan II nor a dual member.

(2) **If you retire, you are no longer a dual member.** Upon retirement from any or all dual member systems, a person is no longer a dual member except for the purpose of receiving a deferred retirement allowance under RCW 41.54.030(3) and WAC 415-113-070.

(3) **If you are not a dual member, you may still be eligible for a multiple system benefit.** If you are no longer a dual member you may still be able to receive a multiple system benefit if otherwise eligible. The accrual date of your retirement allowance will vary depending upon the provisions of the particular system. You can find the accrual dates of different dual member systems in the following provisions:

(a) **PERS I:** RCW 41.40.193;

(b) **PERS II:** RCW 41.40.680;

(c) **TRS I:** WAC 415-112-520;

(d) **TRS II:** RCW 41.32.795;

(e) **LEOFF II:** RCW 41.26.490.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Dual member system" - WAC 415-113-0303.

(c) "Member participant" - WAC 415-113-0305.

(d) "Multiple system benefit" - WAC 415-113-0306.

NEW SECTION

WAC 415-113-045 Can I reestablish service credit in a prior system? (1) **You may reestablish service credit terminated by a withdrawal of contributions from a prior system.** If you repay contributions you withdrew from a prior dual member system plus interest from the date of withdrawal you will recover the service terminated by the withdrawal. To qualify, you must repay the contributions plus interest within twenty-four consecutive months from the date you became a dual member.

(a) The twenty-four-month restoration period continues to run even if you terminate dual member status.

(b) If you terminate your dual member status but later become a dual member again, you have twenty-four consecutive months from the date you regain dual member status to repay withdrawn contributions.

Example 3: A person becomes a dual member on January 1, 1994. She has until December 31, 1995, to restore any previously withdrawn contributions for service credit in a prior system regardless of whether she subsequently loses her status as a dual member.

Example 4: A person becomes a dual member on January 1, 1994, separates from membership on January 1, 1995, and then reenters membership on January 1, 1996. He has until December 31,

1997, twenty-four consecutive months from the date he regained dual member status, to restore withdrawn contributions in any prior system.

(c) If you have previous service in LEOFF Plan II or a first class city system:

(i) If you were a dual member on July 25, 1993, and you used to be a member of LEOFF Plan II, you have until July 24, 1995, to repay your withdrawn contributions.

(ii) If you were a dual member on January 1, 1994, and you used to be a member of a first class city retirement system, you have until December 31, 1995, to repay your withdrawn contributions.

Example 5: A person is a member participant in PERS Plan II and has previous service in LEOFF Plan II. LEOFF Plan II was newly admitted to participate under the portability provisions of chapter 41.54 RCW on July 25, 1993. Therefore, the person has until July 24, 1995, to restore her prior LEOFF Plan II service.

(2) **You may reestablish TRS Plan I membership.** If a PERS member restores withdrawn TRS Plan I contributions under this section he or she:

(a) Reestablishes membership in TRS Plan I; and

(b) Will participate prospectively in TRS Plan I if employed by a state agency, school district or other TRS employer.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(b) "Dual member system" - WAC 415-113-0303.

(c) "First class city retirement system" - WAC 415-113-0304.

NEW SECTION

WAC 415-113-055 Am I eligible for a multiple system benefit? To be eligible for a multiple system benefit, you must meet the criteria listed in this section.

(1) **You must retire for service.** You may only retire with a multiple system benefit if you retire from all systems for service, not disability.

(2) **You must retire from all systems.** You may only retire with a multiple system benefit if you retire from all dual member systems that you participate in.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Accumulated contributions" - WAC 415-113-0301.

(b) "Dual member system" - WAC 415-113-0303.

(c) "Multiple system benefit" - WAC 415-113-0306.

NEW SECTION

WAC 415-113-057 Am I required to retire with a multiple system benefit? You are not required to retire with a multiple system benefit. You may elect to retire from a system or systems without the benefits or restrictions of chapter 41.54 RCW. If you choose to retire from more

than one system without receiving a multiple system benefit, you are not subject to the maximum benefit limitation of RCW 41.54.070 and WAC 415-113-090(1).

(1) **Waiver of benefits.** If you decide not to receive a multiple system benefit, you waive the right to:

(a) Substitute your base salary between retirement systems for purposes of calculating a retirement allowance; or

(b) Combining your service from each system for purposes of determining retirement eligibility.

(2) **You are not required to retire with a multiple system benefit even if you repaid contributions as a dual member.** If you repaid previously withdrawn contributions from a prior dual member system under RCW 41.54.020, you may still elect to retire from one or more systems without receiving a multiple system benefit.

(3) **If you decline a multiple system benefit, you may withdraw your contributions.** If you elect to retire without receiving a multiple system benefit, you may withdraw your accumulated contributions from a system in lieu of receiving a retirement allowance, provided that withdrawal is otherwise permissible under the systems' provisions.

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Accumulated contributions" - WAC 415-113-0301.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member" - RCW 41.54.010(4), WAC 415-113-0303.

(d) "Dual member system" - WAC 415-113-0303.

(e) "Multiple system benefit" - WAC 415-113-0306.

CALCULATING YOUR DUAL MEMBER BENEFIT

NEW SECTION

WAC 415-113-059 Can I combine service from different systems to qualify for increased benefits? (1) You may combine service to determine retirement eligibility. You may combine your service in all systems for the sole purpose of determining your eligibility for a service retirement allowance.

(2) **You may not combine service for any other purpose.** You may not combine your service in all systems to qualify for additional benefits offered by a particular system. Those additional benefits include but are not limited to:

(a) PERS Plan I military service. You may not combine service from other systems to qualify for military service credit in PERS Plan I under RCW 41.40.170.

(b) LEOFF Plan II post-separation benefits. You may not combine your accrued service under both systems for purposes of qualifying for:

(i) A LEOFF Plan II indexed retirement allowance under RCW 41.26.530(2); or

(ii) A refund of one hundred fifty percent of the LEOFF Plan II member's accumulated contributions under RCW 41.26.540.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed: "System" - RCW 41.54.010(6).

NEW SECTION

WAC 415-113-065 Can I substitute salary from one system to another? (1) You can substitute base salary between systems.

(a) If you elect to retire with a multiple system benefit, you may substitute your base salary under one dual member system for your includable compensation in a second dual member system for purposes of computing a retirement allowance from the second system. Using the substituted salary, the department will compute your average compensation under each system's own requirements.

Example 6: At retirement, a person is a member participant in PERS Plan II and has prior creditable service in TRS Plan I. Assume the multiple system retiree earned her highest compensation during her PERS Plan II service. The retiree's PERS Plan II retirement allowance will be based on her PERS Plan II average compensation. For purposes of computing her TRS average compensation and retirement allowance, she may substitute her PERS Plan II base salary earned over two consecutive fiscal years for her earnable compensation in TRS.

Example 7: At retirement, a person is a member participant in TRS Plan I and has prior creditable service in PERS Plan I. Assume the multiple system retiree earned his highest compensation during his membership in TRS Plan I. The retiree may substitute his base salary earned while a member in TRS Plan I for his PERS Plan I compensation earnable. However, because he may substitute only his base salary from TRS Plan I for his compensation earnable in PERS, his PERS average compensation will not include any cashout payments from his TRS employer.

(b) If you do not have sufficient service credit months in one dual member system to complete an average compensation period under that system, the department will substitute the appropriate number of months of base salary from another system to complete the average compensation period.

Example 8: A person who has creditable service in TRS Plan I and PERS Plan II retires at age sixty-five having accrued twenty-four months of service in PERS Plan II. Under PERS Plan II, a member's average compensation period is the member's highest consecutive sixty-month period of compensation. To compute the multiple system retiree's PERS Plan II retirement allowance, the department will substitute her highest consecutive thirty-six service credit months of TRS base salary to complete the PERS sixty-month average compensation period.

(2) **Adjusted full-time salary is not base salary.** A multiple system retiree's adjusted full-time salary under RCW 41.32.345 shall not constitute base salary for purposes of computing the retiree's multiple system benefit.

(3) **Includable compensation defined.** For purposes of this chapter, "includable compensation" means:

(a) Earnable compensation under TRS Plan I or II as defined in RCW 41.32.010(10);

(b) Compensation earnable under PERS Plan I or II as defined in RCW 41.40.010(8);

(c) Basic salary under LEOFF Plan II as defined in RCW 41.26.030 (13)(b); and

(d) Monthly salary under WSPRS as used in RCW 43.43.120(15).

(4) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-0302.

(b) "Base salary" - RCW 41.54.010(1).

(c) "Dual member system" - WAC 415-113-0303.

(d) "Member participant" - WAC 415-113-0305.

(e) "Multiple system benefit" - WAC 415-113-0306.

(f) "Multiple system retiree" - WAC 415-113-0308.

NEW SECTION

WAC 415-113-070 Can I defer my retirement allowance from a system if I retire with a multiple system benefit? (1) You may defer receipt of your retirement allowance. If, by combining creditable service, you qualify to retire in one system but not in a second system, you must either:

(a) Receive an actuarially reduced retirement allowance from the second system; or

(b) Defer retirement in the second system until fully eligible to receive a retirement allowance from that system.

(i) If you elect to defer retirement in the second system, you retain dual member status for the sole purpose of receiving a multiple system benefit when fully eligible;

(ii) If you retire from all systems but elect to defer retirement in one dual member system under RCW 41.54.030(3), you may not subsequently withdraw accumulated contributions from that system.

(2) **If you defer your retirement allowance and later reenter membership, you are no longer a dual member.** If, after deferring retirement, you enter membership in a dual member system, your dual member status terminates. Once your dual member status terminates:

(a) You may only retire under the deferred system if eligible based solely upon that system's retirement eligibility criteria; and

(b) Your retirement allowance under the deferred system will be based solely upon service actually established in that system.

Example 9: A sixty-two year old dual member of PERS Plan I and TRS Plan II retires. He elects to receive PERS Plan I benefits but defer receipt of a TRS Plan II retirement allowance until eligible for full benefits at age sixty-five. If he becomes reemployed in a TRS Plan II eligible position, he will reenter TRS Plan II membership if otherwise eligible and terminate his dual member status, but he will continue to receive his PERS Plan I retirement allowance. The member's eligibility to retire from TRS Plan II will be based solely on his accrued

service credit in TRS Plan II and his TRS Plan II retirement allowance will be based solely on his compensation while he was a member participant in TRS Plan II.

Example 10: Assume the retiree in Example 9 above became reemployed in a PERS position rather than a TRS Plan II position. The retiree would reenter PERS Plan I membership, if otherwise eligible, and terminate his dual member status. The effect on the person's right to a TRS Plan II benefit is the same as in Example 9. Because the retiree reentered PERS membership, the department would also suspend his PERS Plan I retirement allowance.

(3) **If you defer your retirement allowance and die before you are fully eligible, your survivor may receive a continuing benefit.** If you defer receipt of your retirement allowance from a system and die before you are fully eligible:

(a) Your surviving spouse, if any, must elect to receive either:

(i) A joint and one hundred percent survivor option from the deferred system. If your surviving spouse selects this option, your base salary under one system may be substituted for your includable compensation in the deferred system to compute the survivor retirement allowance from the deferred system; or

(ii) A refund of your accumulated contributions from the deferred system.

(b) If you do not have a surviving spouse, the department will pay your accumulated contributions from the deferred system to:

(i) Your designated beneficiary or beneficiaries; or

(ii) Your estate, if there are no living beneficiaries.

(4) **"Fully eligible" defined.** "Fully eligible" means a person who is eligible to receive a retirement allowance from a dual member system without receiving a reduction for:

(a) Early retirement from a Plan II system pursuant to RCW 41.40.630(2), 41.32.765(2), 41.26.430(2); or

(b) Retirement as a nonmember participant from PERS Plan I under RCW 41.40.150 (4) and (6) or from WSPRS under RCW 43.43.280(2).

(5) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member system" - RCW 41.32.010(4), WAC 415-113-041.

(b) "Member participant" - WAC 415-113-0305.

(c) "Includable compensation" - WAC 415-113-065(3)

(d) "Multiple system participant" - WAC 415-113-0307.

(e) "Nonmember participant" - WAC 415-113-0309.

(f) "System" - RCW 41.54.010(6).

NEW SECTION

WAC 415-113-080 Can I retire retroactively? You may retire retroactively. If you retire from all dual member systems, your retirement allowance from a prior system will be retroactive back to your accrual date under the prior system.

(1) **Accrual date determined.** The department will determine your accrual date in each system by combining your total service and applying the statute or rule designating accrual dates in the particular system. Your accrual date for purposes of this section is the date that your combined service first makes you eligible for an unreduced benefit.

Example 11: A person is a fifty-five year old member participant in PERS Plan II and a nonmember participant in LEOFF Plan II. The person decides not to retire from LEOFF Plan II until he is eligible to retire with full benefits from PERS Plan II at age sixty-five. Upon retirement, he will be entitled to a LEOFF Plan II retirement allowance effective on his accrual date under LEOFF Plan II (i.e., age fifty-five).

Example 12: A person with twenty years of prior service in TRS Plan I becomes a member participant in PERS Plan II on her fifty-fourth birthday. By combining her service in both systems under chapter 41.54 RCW, she will become eligible to retire under TRS Plan I at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty-five. Her TRS Plan I retirement allowance will be effective back to the date it accrued under TRS Plan I (i.e., the first of month following the month she turns fifty-nine).

(2) **You cannot use salary earned after your accrual date in calculating your retroactive benefit.** If you retire retroactively from a prior system, the department will not use any of the salary you earned after your accrual date to compute your benefit from the prior system.

(3) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

(a) "Dual member system" - WAC 415-113-0303.

(b) "Member participant" - WAC 415-113-0305.

(c) "Nonmember participant" - WAC 415-113-0309.

NEW SECTION

WAC 415-113-082 Could retroactive retirement cancel my membership in a subsequent system? (1) If you retire retroactively from a prior system, you could cancel your membership in a subsequent system. If your membership in a subsequent system would have been prohibited under RCW 41.04.270 but for your status as a dual member, and you retire retroactively from a prior system, the department will cancel your membership and refund your contributions in the subsequent system under RCW 41.54.020(1). Your retroactive retirement from a prior system may cancel your membership in a subsequent system according to the following table:

How much service did you earn in your prior system?	Were you eligible to retire in the prior system before you became a member of your subsequent system?	Will retroactive retirement from your prior system cancel your membership in subsequent system?
15 years or more	No	No (See Example 13)
15 years or more	Yes	Yes, unless you retire from both the prior and subsequent system under RCW 41.54.030(2). (See Example 14)
Less than 15 years	No	No (See Example 15)
Less than 15 years	Yes	No (See Example 15)

See RCW 41.54.020(1) and RCW 41.04.270.

Example 13: A nonmember participant in LEOFF Plan II who has accrued sixteen years of service in LEOFF Plan II became a member of PERS Plan II at age fifty-four. Because she became a member participant of PERS Plan II at age fifty-four, prior to attaining retirement eligibility under LEOFF Plan II (i.e., age fifty-five), she may later retire retroactively from LEOFF Plan II, subject to LEOFF Plan II criteria, while continuing membership in PERS Plan II.

Example 14: A nonmember participant in LEOFF Plan II with sixteen years of accrued service became a member of PERS Plan II at age fifty-five. If he attempts to retire from LEOFF Plan II while continuing membership in PERS Plan II, the department will cancel his PERS Plan II membership and refund his PERS contributions. However, if he retires from both systems, he is entitled to retain the benefits of his PERS Plan II membership.

Example 15: Assume either of the retirees in Examples 13 and 14 above had accrued less than fifteen years of service in LEOFF Plan II. In this case, RCW 41.04.270 would not apply to prevent the retirees from establishing PERS Plan II membership. Either person could retire retroactively from the LEOFF Plan II without canceling membership and participation in PERS Plan II.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.
- (b) "Member participant" - WAC 415-113-0305.
- (c) "Nonmember participant" - WAC 415-113-0309.

NEW SECTION

WAC 415-113-084 How will my benefit be computed if I retire retroactively from LEOFF Plan II? (1) Computation of your retroactive LEOFF Plan II retirement allowance. If you retire with a multiple system benefit and one of your retirement allowances is a retroactive LEOFF Plan II allowance, the department will compute your LEOFF Plan II allowance based upon the greater of:

- (a) Your LEOFF Plan II final average salary, substituting some or all of your base salary under the second system which you earned prior to the date your LEOFF Plan II retirement allowance began to accrue (i.e., age fifty-five); or

(b) An indexed retirement allowance under RCW 41.26.530(2) using your LEOFF Plan II average compensation.

Example 16: A person who is a nonmember participant of LEOFF Plan II and a member participant of PERS Plan II retires from both systems at age sixty-five. If he had accrued twenty-one years of creditable service in LEOFF Plan II, the multiple system retiree's LEOFF Plan II retirement allowance may be based upon either: His substituted PERS Plan II base salary which he earned prior to attaining retirement eligibility in LEOFF at age fifty-five; or the LEOFF Plan II indexed retirement allowance under RCW 41.26.530(2) using his LEOFF Plan II average compensation. The department will use the method which results in the largest retirement allowance.

(2) **Defined terms used.** Definitions for the following terms used in this section may be found in the sections listed.

- (a) "Member participant" - WAC 415-113-0305.
- (b) "Multiple system benefit" - WAC 415-113-0306.
- (c) "Multiple system retiree" - WAC 415-113-0308.
- (d) "Nonmember participant" - WAC 415-113-0309.

NEW SECTION

WAC 415-113-090 What is the maximum retirement benefit that I may receive under chapter 41.54 RCW?

(1) **Your benefit may not exceed the lowest benefit limit under any one system.** Your multiple system benefit may not exceed the lowest maximum benefit which you would be permitted to receive under any one of the dual member systems from which you are retiring. See RCW 41.54.070.

(2) **The department will compute your maximum multiple system benefit in the following order:**

(a) **Calculate the maximum benefit you could receive under each system.** If you retire from PERS Plan I, TRS Plan I, WSPRS or a first class city retirement system, the department will compute your maximum benefit according to the benefit limitation provisions of the relevant system as if you had earned your total career service and compensation in that system. In computing your maximum benefit under the relevant system or systems, the department will:

- (i) Apply the provisions of the individual dual member system or systems regarding the determination of your average compensation for each system; and
- (ii) Assume you earned all of your career service with your last employer for purposes of determining any limitations on the inclusion of leave cashouts in your average compensation.

Example 17: A multiple system retiree retires from TRS Plan I state employment with prior creditable PERS Plan I service. His state employer pays him an accrued sick leave cashout at termination. Because a sick leave cashout from a state agency employer is not includable as earnable compensation, the department will not include the cashout in the retiree's average compensation for purposes of computing either

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his PERS Plan I or TRS Plan I maximum benefit.

Example 18: A multiple system retiree retires from PERS Plan I local government employment and receives a sick leave cashout. Because a sick leave cashout from a local government employer may be included as earnable compensation, the department will include the sick leave cashout to compute the retiree's maximum benefits under both PERS Plan I and TRS Plan I.

(b) Determine your retirement allowances from each system. After computing your maximum benefit, the department will determine the retirement allowances which you are entitled to from each system under chapter 41.54 RCW before making any reduction under RCW 41.54.070. If applicable, the department will then reduce the amount of your retirement allowances provided by either of the dual member systems for:

(i) Your status as a nonmember participant of PERS Plan I pursuant to RCW 41.40.150 (4) and (6), or a nonmember participant of WSPRS pursuant to RCW 43.43.280(2); or

(ii) Your election to retire early from a Plan II system pursuant to RCW 41.40.630(2), 41.32.765(2), and 41.26.430(2).

(c) Compute your total multiple system benefit. Upon computing your retirement allowances from each system and making any applicable reductions under (b) of this subsection, the department will add the systems' allowances to compute your total multiple system benefit.

(d) Compare your total multiple system benefit with your maximum benefit and, if necessary, proportionately reduce your retirement allowances. The department will then compare your total multiple system benefit with your maximum benefit calculated in (a) of this subsection. If your total multiple system benefit exceeds your maximum benefit, the department will proportionately reduce your retirement allowances provided by each system as follows:

(i) Calculate what proportion your total multiple system benefit is provided by each system separately;

(ii) Proportionately reduce the benefit provided by each system to account for the excess of your total multiple system benefit over your maximum benefit.

Example 19: A person with twenty-nine years of prior service in TRS Plan I and one year of subsequent service in PERS Plan II retires from both systems at age sixty-five. The retiree's TRS Plan I average compensation is thirty thousand dollars. The TRS Plan I maximum benefit is sixty percent of average compensation. The retiree's maximum TRS benefit is eighteen thousand dollars or one thousand five hundred dollars per month. Because PERS Plan II does not have a maximum benefit limit, the TRS Plan I maximum benefit amount is the retiree's maximum benefit.

Assume the retiree's accrued service is such that her actual TRS Plan I monthly benefit is one thousand four hundred fifty dollars and

her PERS Plan II monthly benefit is one hundred dollars. The retiree's total multiple system benefit is the sum of her TRS Plan I and PERS Plan II benefits, or one thousand five hundred fifty dollars. Because the retiree's total multiple system benefit exceeds her maximum benefit by fifty dollars, the department would proportionately reduce her TRS Plan I and PERS Plan II benefits. Her TRS Plan I benefit is 29/30 of her total service or ninety-seven percent, and her PERS Plan II benefit is 1/30 of total service, or three percent. The department would reduce her TRS Plan I benefit by ninety-seven percent of the overage, or forty-eight dollars and fifty cents ($50 \times .97$) and her PERS Plan II benefit by three percent of the overage, or one dollar and fifty cents ($50 \times .03$).

(3) If you select a benefit payment option, the department will reduce your multiple system benefit to account as appropriate. After making any applicable reductions in your benefit under subsection (1)(d) of this section, the department will further reduce your benefit if you elect:

(a) To withdraw your accumulated contributions at the time you retire from TRS Plan I;

(b) A survivor benefit option; or

(c) A cost-of-living adjustment (COLA) option.

(4) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed.

(a) "Average compensation" - WAC 415-113-0302.

(b) "Dual member" - RCW 41.54.010(4), WAC 415-113-041.

(c) "Dual member system" - WAC 415-113-0303.

(d) "First class city system" - WAC 415-113-0304.

(e) "Member participant" - WAC 415-113-0305.

(f) "Multiple system benefit" - WAC 415-113-0306.

(g) "Multiple system retiree" - WAC 415-113-0308.

(h) "Nonmember participant" - WAC 415-113-0309.

NEW SECTION

WAC 415-113-100 Am I eligible for a lump sum retirement allowance? (1) If you retire with a multiple system benefit and one of your retirement allowances is less than fifty dollars per month, you may receive a lump sum payment as allowed under RCW 41.54.090.

(2) Unless you are retiring from TRS Plan I, the department will use your standard retirement allowance to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(3) If you are retiring from TRS Plan I, the department will use your maximum retirement allowance under TRS Plan I to determine your eligibility for lump sum cashouts under RCW 41.54.090.

(4) Defined terms used. Definitions for the following terms used in this section may be found in the sections listed: "Multiple system benefit" - WAC 415-113-0306.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 415-113-010 Background and purpose.
- WAC 415-113-020 Authority to assess costs of portability.
- WAC 415-113-040 Additional costs.
- WAC 415-113-050 Election to participate.
- WAC 415-113-060 Reimbursement of additional costs.

**WSR 95-03-005
PERMANENT RULES
PARKS AND RECREATION
COMMISSION**

[Filed January 5, 1995, 9:09 a.m.]

Date of Adoption: January 5, 1995.

Purpose: To establish Fort Worden recreational housing and facility use fees and reservation policies.

Citation of Existing Rules Affected by this Order: Amending WAC 352-32-25001 and 352-32-25002.

Statutory Authority for Adoption: RCW 43.51.060(6).

Pursuant to notice filed as WSR 94-21-074 on October 18, 1994.

Effective Date of Rule: Thirty-one days after filing.

January 5, 1995

Cleve Pinnix

Director

for Anne Cox Preecs

Chair

AMENDATORY SECTION (Amending WSR 94-04-075, filed 1/31/94, effective 3/3/94)

WAC 352-32-25001 Recreational and conference center housing fees and meeting room fees charged. ((1)) The following fees shall be charged per day for recreational and conference center housing at Fort Worden State Park:

(a) Renovated housing

- Noncommissioned officers' row buildings #231 and #232 (4 units, each with 2 bedrooms) \$ 75.00/unit
- Officers' row buildings #5, #6, and #7 (6 units, each with 3.5 bedrooms) \$ 120.00/unit
- Officers' row buildings #4 and #11 (4 units, each with 6 bedrooms) \$ 200.00/unit
- Charge for additional rollaway beds \$ 10.85 per bed

(b) Nonrenovated housing

- Officers' row building #9, #10 and #16 (5 units, each with 3 bedrooms) \$ 93.00/unit
- Officers' row buildings #15 (1 unit with 5 bedrooms) \$ 146.00/unit
- Charge for additional rollaway beds \$ 10.85 per bed
- Bliss vista building #235 and (1 unit, with 1 bedroom) \$ 62.00/unit
- Castle building #229 (1 unit, with 1 bedroom) \$ 62.00/unit

A deposit equal to the cost of the first night's fee for each unit rented is required. A \$10.00 per unit cancellation fee is deducted from the deposit for any canceled reservations, to cover processing costs. If the cancellation is made

less than three weeks prior to the arrival date, the entire deposit is forfeited, unless the unit is re-rented.

Meal charges vary depending upon which meals and which level of service are selected by the visitor in the reservation agreement. All conference groups utilizing dormitory accommodations must contract for food services for a minimum of two meals per full day of occupancy. Food services are optional for nonconference groups using above listed recreational housing.

(e) Dormitory housing (for group reservations only—meals not included)

- 1-2 days \$11.50/person/day
- 3-13 days \$ 9.22/person/day

- Dormitory linen and towel charge \$9.60
- Additional towel charges \$.90
- Additional towel set \$2.00
- Emergency bedroll \$9.75

(d) Barracks-style housing (for group reservations only—meals not included)

- 1-2 days \$9.50/person/day
- 3-13 days \$7.42/person/day

All meals are served in the dining hall.

Washington state sales tax is added to all charges.

The Centrum organization has a preferential right to reserve certain facilities and services at Fort Worden State Park in conjunction with special group programs administered by Centrum as set forth in the Fort Worden State Park Master Facility Use Plan and by separate agreement with Centrum. For further information contact Fort Worden State Park.

(2) Meeting rooms are available at varying charges, depending on size, character of facility, and length of stay. Prices range between \$7.95 and \$39.80 for those residing in Fort Worden recreational housing, with increased charges for nonusers of recreational housing facilities. Additional cleaning fee is charged if food or beverages are consumed in the room. Theatre is available for performances—\$132.50 per day; for rehearsals—\$42.50 per night. For larger performances or events, the balloon hangar pavilion is available at the following rental rates:

- Commercial events \$800 per day (plus \$100 or 5% of the gross event receipts, whichever is greater)
- Nonprofit or charitable events (with admission fee) \$500 per day
- Nonprofit or charitable events (without admission fee) \$250 per day
- Rehearsals \$75 per day

Pavilion rates apply to users except as otherwise provided under separate contracts pertaining to project funding. The kitchen shelter is available for the fee of \$26.50 per day without propane service, or \$38.50 per day with propane service, plus a refundable \$50.00 cleaning deposit for nonresidents. Kitchen shelter rate is \$16.50 per day when used with catered meal by food service concessionaire.

(3) Groups or organizations of thirty two or more wishing to reserve the Fort Worden State Park housing or meeting room facilities may make application for reservations in advance consistent with the provisions of the Fort Worden Master Facility Use Plan by contacting the park.

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~~Confirmation of reservations is subject to the user group complying with the procedures specified in the Master Facility Use Plan and the reservation agreement, copies of which are available at the park.~~

(4)) Recreation and conference center housing and meeting room fees for Fort Worden State Park are reviewed and modified as necessary by the commission each year. A fee schedule listing these fees is available by contacting Fort Worden State Park, 200 Battery Way, Port Townsend, Washington 98368. In reservation of facilities at Fort Worden State Park, certain deposits and cancellation fees apply. Please consult the annual fee schedule for reservation, deposit and cancellation rules and information. Consistent with the Fort Worden State Park Master Facility Use Plan, conference groups may also reserve campsites in advance as their sole overnight accommodation: *Provided*, That there will be a twenty-site minimum for any individual reservation. During the months of May through September only the upper campground may be reserved by such conference groups. During the months of October through April, all of the upper campground and twenty sites in the beach level campground may be reserved by conference groups.

AMENDATORY SECTION (Amending WSR 92-05-002, filed 2/5/92, effective 3/7/92)

WAC 352-32-25002 Campsite and rally area reservations—Fort Worden State Park. (1) Advance individual campsite reservations will be available at Fort Worden State Park. They may be made throughout the year for no more than ten consecutive nights within the current and first succeeding calendar month, except that a continuous reservation may carry from the end of the first succeeding month into the beginning of the next succeeding month. Reservations may be made by mail, or in person, at Fort Worden State Park, and will require a completed application, the first night's camping fee and the nonrefundable reservation fee provided for in WAC 352-32-035. Mail-in reservations will be processed in the order that they are received. Reservation requests postmarked earlier than the twentieth day of the preceding month will be returned to the sender. Reservation of campsites will not be accepted by telephone. Walk-in reservations will be accepted beginning the first day of the current month for the current month and the first succeeding month. During the period from the Friday before Memorial Day through Labor Day an individual may reserve no more than ten campsites for use at the same time, and, may reserve campsites for no more than ten nights in each calendar month. Other state parks are subject to continuous occupancy rules provided for in WAC 352-32-030(6).

(2) Reservations for a specific campsite will not be guaranteed.

A refund of the first night's camping fee will be issued for any reservation which is not used, provided a cancellation request is made in person, by mail, or by telephone prior to 5:00 p.m. on the first day of the reservation. Campers will be declared no-show and, in addition to the nonrefundable reservation fee, will forfeit their reservation as well as the first night's camping fee if they have not cancelled and if the reservation is not claimed by 8:00 a.m. on the day after the confirmed arrival date.

(3) Campers who arrive at the park without a reservation may use unreserved campsites for up to ten consecutive nights during the period from May 1 through September 30 and fifteen consecutive nights during the period from October 1 through April 30, beginning the day of arrival, on a first-come-first-served basis, without paying a reservation fee.

(4) Advance reservations will be available for groups of self-contained recreational vehicles in the Fort Worden State Park rally area. The group must have a minimum of ten recreational vehicles and may not exceed two hundred recreational vehicles. ~~((The nonrefundable reservation fee for the rally area will be \$2.00 per recreational vehicle, or \$35.00 total, whichever is greater. The rally area camping fee is \$4.00 per night.))~~ Rally area reservations may be made by contacting Fort Worden State Park.

WSR 95-03-012
PERMANENT RULES
DEPARTMENT OF LICENSING
 (Real Estate Commission)
 [Filed January 5, 1995, 11:15 a.m.]

Date of Adoption: January 5, 1995.

Purpose: These rules and changes are necessary to implement the new real estate education legislation increasing licensing education clock hour requirements and to update, clarify, or reorganize other rules that need house-keeping or other changes to conform to policy goals.

Citation of Existing Rules Affected by this Order: Amending WAC 308-124-005 Organization, address and zip code update; WAC 308-124A-025 Application process to take examination, clarifies examination requirements and reorganizes rule for better readability; WAC 308-124A-110 Application for real estate examination, licensed in another jurisdiction, clarifies requirements for out-of-state licensees to take the examination; WAC 308-124A-420 Application for broker license examination, other qualification or related experience, address and zip code update; WAC 308-124A-422 Application for broker license examination—Clock hour requirements, revise course and clock hour requirements into one rule; WAC 308-124A-425 Substitution of clock hours, eliminate waiver options and create criteria for equivalent course work substitution; WAC 308-124A-600 Continuing education clock hour requirements, add new course references and clarify courses may be repeated in subsequent renewal periods; WAC 308-124H-011 Course approval required, adds language regarding course curriculum and content requirements; WAC 308-124H-025 Application for course approval, adds language for new course requirements and reorders rule for better readability; WAC 308-124H-041 Certificate of completion, adds language that school administrator signs course certificates; WAC 308-124H-061 Grounds for denial or withdrawal of course, adds language in subsection (14) consistent with statute; WAC 308-124H-310 Grounds for denial or withdrawal of school approval, adds language in subsection (14) consistent with statute and adds requirement courses must be taught consistent with approved course content or curriculum to maintain school approval; WAC 308-124H-540 Qualifications of instructors, requires

instructors to demonstrate competency in subject matter/topic for instructor approval; WAC 308-124H-570 Grounds for denial or withdrawal of instructor approval, adds language in subsection (14) consistent with statutes and adds requirement courses must be taught consistent with approved course content or curriculum to maintain instructor approval; and WAC 308-124H-800 Real estate course, school, and instructor approval fees, clarifies fees, no increase in fees.

New sections WAC 308-124A-590 Salesperson first active license renewal—Post license requirements, course requirements for first active license renewal; and WAC 308-124A-595 License activation, real estate practices may be used to satisfy activation requirements in addition to first active renewal requirements.

Repealing WAC 308-124H-035, 308-124H-036 and 308-124H-037, consolidated into WAC 308-124H-011 by reference; and WAC 308-124H-080 recreated in new WAC 308-124A-595.

Statutory Authority for Adoption: RCW 18.85.040.

Other Authority: SB 6284.

Pursuant to notice filed as WSR 94-21-075 on October 18, 1994.

Changes Other than Editing from Proposed to Adopted Version: WAC 308-124A-025 Application process, this rule was modified to reorder the substance and make it more readable; WAC 308-124A-110 Application process for those licensed in another jurisdiction, this rule was modified to reflect eligibility requirements for those licensed in the same or greater capacity from another jurisdiction; WAC 308-124A-595 License activation, recreates language from WAC 308-128H-080 [308-124H-080] and places it in a WAC section where it is easier to assimilate; WAC 308-125H [308-124H-025] Application for course approval, capitalizes titles of reserved courses; and WAC 308-124H-080, repeals and recreates in new WAC 308-124A-595.

Effective Date of Rule: WAC 308-124-005, 308-124A-110, 308-124A-420, 308-124A-600, 308-124H-041, 308-124H-061, 308-124H-310, 308-124H-540, 308-124H-570, 308-124H-800, 308-124H-035, 308-124H-036, and 308-124H-037 will be effective February 5, 1995; and WAC 308-124A-025, 308-124A-422, 308-124A-425, 308-124A-590, 308-124A-595, 308-124H-011, 308-124H-025, and 308-124H-080 will be effective July 1, 1995.

January 5, 1995

Kathy Baros Friedt
Director

AMENDATORY SECTION (Amending WSR 90-23-039, filed 11/15/90, effective 12/16/90)

WAC 308-124-005 Organization. The principal location of the Real Estate Program is at 2424 Bristol Court SW, Olympia, Washington ((98504)) 98502. A Spokane office is at ((East)) 11530 East Sprague Avenue, Spokane, Washington 99206.

The department of licensing administers the Washington real estate license law, chapter 18.85 RCW. The real estate commission, composed of the director of the department of licensing and six commission members, appointed by the governor from the real estate industry, prepares or reviews and approves examination questions for license applicants, holds real estate education conferences, advises the director

as to the issuance of rules and regulations governing the activities of real estate brokers and salespersons and performs such other duties and functions as prescribed by chapter 18.85 RCW. Submissions and requests for information regarding real estate licenses, the real estate commission, or the real estate program, may be sent in writing to the Real Estate Program, Department of Licensing, P.O. Box 9015, Olympia, Washington ((98504)) 98507-9015.

AMENDATORY SECTION (Amending WSR 93-24-096, filed 11/30/93, effective 1/1/94)

WAC 308-124A-025 Application process to take examination not licensed in another jurisdiction. This section does not apply to applicants for a real estate salesperson or broker license who are actively licensed in another jurisdiction or were so licensed in the preceding six months.

(1) Any person desiring to take an examination for a real estate salesperson license, except (~~candidates who are actively licensed in another jurisdiction or were so licensed in the preceding six months or candidates~~) applicants who have received clock hours in another jurisdiction, which have not been approved by the department or applicants who are requesting substitution of clock hours per WAC 308-124A-425, shall telephone the testing service up to three days prior to the desired test date to schedule an examination. On the day of the examination, the candidate shall submit a completed examination application together with the examination fee and supporting documents, including evidence satisfactory to the department of having successfully completed an approved (~~thirty~~) sixty clock hour fundamentals course, to the testing service approved by the department.

(2) Any person desiring to take an examination for a real estate salesperson license who received clock hours in another jurisdiction which have not been approved by the department or salesperson applicants who are requesting substitution of clock hours per WAC 308-124A-425, must submit a completed examination application with supporting documents, including evidence satisfactory to the department of having successfully completed any and all approved clock hour courses for licensure, to the real estate program of the department of licensing. After the qualifications for the examination have been verified by the department, the candidate shall telephone the testing service up to three days prior to the desired test date to schedule an examination. On the day of the examination, the candidate shall submit the verified examination application and examination fee to the testing service approved by the department.

(3) Any person desiring to take an examination for a real estate broker license (~~or real estate salesperson license who is actively licensed in another jurisdiction or was so licensed in the preceding six months or who has received clock hours in another jurisdiction~~), including applicants who have received clock hours in another jurisdiction which have not been approved by the departments or broker applicants who are requesting substitution of clock hours per WAC 308-124A-425, must submit a completed examination application with supporting documents, including evidence satisfactory to the department of having successfully completed any and all approved clock hour courses for licensure, to the ((licensing division)) real estate program of the department of licensing. After the qualifications for the

examination have been verified by the department, the candidate shall telephone the testing service up to three days prior to the desired test date to schedule an examination. On the day of the examination, the candidate shall submit the ~~((completed))~~ verified examination application and examination fee ((by cashier's check, certified check, or money order)) to the testing service approved by the department.

~~((3))~~ (4) The ~~((applicant))~~ candidate will be able to schedule an examination date up to three days prior to their desired test date. Candidates requesting a morning or afternoon test session will be scheduled immediately for an examination and will be provided with a registration number confirming their reservation. On the day of the examination, the candidate shall submit the verified examination application and examination fee by cashier's check, certified check, or money order to the testing service approved by the department. Cash, or personal check, will not be accepted from candidates.

~~((4))~~ An examination candidate who has a completed examination application with the examination fee and supporting documents, including evidence satisfactory to the department of having successfully completed an approved thirty clock hour fundamentals course for candidates for a salesperson license, shall telephone the testing service to schedule an examination. A candidate for a real estate broker license or real estate salesperson license who is actively licensed in another jurisdiction or was so licensed in the preceding six months or who has received clock hours in another jurisdiction must have his or her qualifications for the examination verified by the department as provided in subsection (2) of this section prior to scheduling an examination as permitted in this section. The examination fee shall be paid in the form of a certified check, a cashier's check, or money order made payable to the testing service approved by the department. Cash, or personal check, will not be accepted from candidates.

(5) ~~((An applicant))~~ A candidate shall be assessed the full examination fee for any examination in which the ~~((applicant))~~ candidate fails to provide four days notice to the testing service for changing their examination date or for failing to arrive and take a scheduled examination at the time the examination is scheduled or rescheduled.

AMENDATORY SECTION (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

WAC 308-124A-110 Application for real estate examination, licensed in another jurisdiction. (1) Any person applying for a real estate broker or real estate salesperson examination who is actively licensed in the same or greater capacity in another ((state, territory of the United States or province of the Dominion of Canada)) jurisdiction and has maintained his or her license in good standing or who was actively licensed in the same or greater capacity in good standing within the preceding six months ((may become licensed as a)) is eligible to take the Washington ((real estate broker, associate broker or salesperson after passing an)) law portion of the examination ((on Washington law and real estate practices if he or she meets the minimum requirements established by RCW 18.85.090, 18.85.095, and/or 18.85.120 whichever is (are) applicable)).

~~(2) ((Applicants for the broker's examination will be approved as satisfying the minimum requirements established by RCW 18.85.090, if the education requirements for licensure in the other jurisdiction are determined by the director, with the advice of the commission, as being at least equivalent to the clock hours of instruction required under RCW 18.85.090(4)).~~

~~(3) Applicants for the salesperson's examination will be approved as satisfying the minimum requirements established by RCW 18.85.095, if the education requirements for licensure in the other jurisdiction are determined by the director, with the advice of the commission, as being at least equivalent to the real estate fundamentals course required under RCW 18.85.095.~~

(4)) Any person applying to take the examination under this section shall submit an examination application approved by the department and shall submit evidence of licensure in another ((state, territory of the United States or province of the Dominion of Canada)) jurisdiction by a license verification form completed by an administrative officer of the licensure authority in such jurisdiction.

(3) After the qualifications for the examination have been verified by the department the candidate shall telephone the testing service up to three days prior to the desired test date to schedule an examination. Candidates requesting a morning or afternoon test session shall be scheduled immediately for an examination and will be provided with a registration number confirming their reservation. On the day of the examination, the candidate shall submit the verified examination application and examination fee by cashier's check, certified check or money order to the testing service approved by the department. Cash or personal checks will not be accepted from candidates.

AMENDATORY SECTION (Amending WSR 90-23-039, filed 11/15/90, effective 12/16/90)

WAC 308-124A-420 Application for broker license examination, other qualification or related experience. Applications for a real estate broker license examination by persons who do not possess two years of actual experience as a full-time real estate salesperson as required by RCW 18.85.090 which show other and similar qualifications, or qualification by reason of practical experience in a business allied with or related to real estate shall be submitted to the Real Estate Program, P.O. Box ~~((9024))~~ 9015, Olympia, Washington ~~((98504))~~ 98507-9015. The application shall be accompanied by a letter requesting approval of alternative qualifications or experience and indicating the basis for such approval. The letter must include a detailed personal history or work resume, with appropriate documentation, and a letter from each of five business associates describing from personal knowledge the qualifications and experience of the applicant. The following guidelines are provided as examples of experience which may qualify in lieu of two years of full-time sales experience:

(1) Post-secondary education with major study in real estate together with one year experience as a real estate salesperson or one year experience under the provisions of subsections (2) - (7) below.

(2) Experience as an attorney at law with practice in real estate transactions for not less than one year.

(3) Five years' experience, with decision responsibility, in closing real estate transactions for escrow companies, mortgage companies, or similar institutions.

(4) Five years' experience as an officer of a commercial bank, savings and loan association, title company or mortgage company, involving all phases of real estate transactions.

(5) Five years' experience as a real property fee appraiser or salaried appraiser for a governmental agency.

(6) Five years' experience in all phases of land development, construction, financing, selling and leasing of residences, apartments or commercial buildings.

(7) Five years' experience in real estate investment, property management, or analysis of investments or business opportunities.

All time periods suggested in these guidelines shall be within the last seven years prior to the date of application.

AMENDATORY SECTION (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

WAC 308-124A-422 Application for broker license examination—Clock hour requirements. (1) Applicants for the broker's examination shall have ~~((ninety))~~ successfully completed one hundred twenty clock hours of approved real estate instruction in addition to any other clock hours completed and used to satisfy requirements of chapter 18.85 RCW. Instruction must include a course in real estate law ~~((and))~~ a course in real estate brokerage management, a course in business management and one elective course. All courses completed to satisfy this requirement must be substantive real estate subject matter as defined in WAC 308-124H-025(1) and be at least thirty clock hours in length and include a comprehensive examination. Courses must be completed within five years prior to applying for the broker's examination.

(2) Courses in real estate law ~~((and))~~ real estate brokerage management, and business management, used to satisfy continuing education requirements within five years of applying for the broker's examination shall satisfy the requirements of subsection (1) of this section provided the applicant successfully completed a comprehensive examination. Applicants are required to complete ~~((ninety))~~ one hundred twenty clock hours of approved course work in addition to real estate law ~~((and))~~ brokerage management, and business management when they are used for continuing education credit or to reactivate an inactive license.

AMENDATORY SECTION (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

WAC 308-124A-425 ((Waiver)) Substitution of clock hours. ~~((Waiver of clock hours required under RCW 18.85.090, 18.85.095, 18.85.165, and 18.85.215 shall not be considered or granted.))~~ (1) The director may allow for substitution of the clock hour requirements in RCW 18.85.090 (1)(d) and 18.85.095 (1)(b), if the individual is otherwise and similarly qualified by reason of completion of equivalent educational course work in any institution of higher education or degree granting institution.

(2) Individuals requesting approval of equivalent educational course work shall submit a transcript of course work completed from an institution of higher education or a

degree granting institution together with an application for the license examination. The department may also require certification from an authorized representative of the institution of higher education or degree granting institution that the course work satisfies the department's prescribed course content or curriculum for a given course(s).

NEW SECTION

WAC 308-124A-590 Salesperson first active license renewal—Post license requirements. The minimum requirements for a salesperson to be issued the first renewal of an active license are that the salesperson:

(1) Has furnished proof that the salesperson has successfully completed a thirty clock-hour course, from a prescribed curriculum approved by the director, in real estate practices commenced after issuance of a first license. The salesperson must pass a course examination approved by the director; and

(2) Furnish proof, that the salesperson has completed an additional thirty clock hours of continuing education commenced after issuance of first license.

NEW SECTION

WAC 308-124A-595 License activation. (1) An inactive license may be placed on active status pursuant to RCW 18.85.215.

(2) A salesperson may use a thirty-clock hour course, from a curriculum approved by the director, in real estate practices for both activation of a license that has been inactive for three or more years and for first renewal of an active license as required in WAC 308-124A-590(1).

AMENDATORY SECTION (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

WAC 308-124A-600 Continuing education clock hour requirements. A licensee shall submit to the department evidence of satisfactory completion of clock hours, pursuant to RCW 18.85.165, in the manner and on forms prescribed by the department.

(1) A licensee applying for renewal of an active license shall submit evidence of completion of at least thirty clock hours of instruction in a course(s) approved by the director and commenced within thirty-six months of a licensee's renewal date. A minimum of fifteen clock hours must be completed within twenty-four months of the licensee's current renewal date; up to fifteen clock hours of instruction beyond the thirty clock hours submitted for a previous renewal date may be carried forward to the following renewal date.

(2) The thirty clock hours may be satisfied by evidence of at least twenty clock hours in courses designated by the commission as substantive real estate subject matter and not more than ten clock hours in courses designated by the commission as business skills and management courses~~((+ this subsection shall become effective on January 1, 1992)).~~

(3) Courses for continuing education clock hour credit shall be commenced after issuance of a first license.

(4) A licensee shall not place a license on inactive status to avoid the continuing education requirement. A licensee shall submit evidence of completion of continuing education

clock hours to activate a license if activation occurs within one year after the license had been placed on inactive status and the last renewal of the license had been as an inactive license.

(5) ~~((Only))~~ Approved courses ~~((in real estate law, real estate finance, taxation, and license law, rules and regulations))~~ may be repeated for continuing education credit in subsequent renewal periods.

(6) Clock hour credit for continuing education shall not be accepted if:

(a) The course is not approved pursuant to chapter 308-124H WAC and chapter 18.85 RCW;

(b) Course(s) was taken to activate an inactive license pursuant to RCW 18.85.215(3);

(c) Course(s) was used to satisfy the requirements of RCW 18.85.095 (1)~~((e))~~(b), real estate salesperson's license, ~~((RCW 18.85.140, reinstatement))~~ RCW 18.85.095 (2)(a), real estate salesperson's practices course, and RCW 18.85.090, broker's license and WAC 308-124A-570, reinstatement.

(7) Instructors shall not receive clock hour credit for teaching or course development.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

WAC 308-124H-011 Course approval required. (1) Any approved school or approved instructor desiring to offer clock hour courses must ~~((be approved))~~ receive course approval by the department prior to the date on which it first offers the course(s) for clock hour credit.

(2) Any approved school or approved instructor desiring to offer fundamentals, business management, broker management, real estate law, and/or practices shall utilize the most recent course curriculum or course content prescribed by the department. Approved school administrators shall ensure each student receives the course curriculum or course content and completes a course evaluation form approved by the department.

AMENDATORY SECTION (Amending WSR 91-23-006, filed 11/7/91, effective 12/8/91)

WAC 308-124H-025 Application for course approval. Courses shall meet the following requirements:

(1) Have a minimum of three hours of classroom work for the student. A classroom hour is a period of fifty minutes of actual classroom or workshop instruction, exclusive of examination time;

(2) Provide practical information related to the practice of real estate, and deal with substantive real estate subject matter in any of the following real estate topic areas: Fundamentals, ~~((principles/practices))~~ Practices, principles/essentials, Real Estate Law, legal aspects, Brokerage Management, Business Management, taxation, appraisal, evaluating real estate and business opportunities, property management and leasing, construction and land development, ethics and standards of practice, escrow closing/settlement practices, current trends and issues, finance, hazardous waste and other environmental issues, commercial or;

~~((2))~~ (3) Provide practical information related to assisting licensees in improving their business skills and business management in order to enable them to better serve

and protect the consumer in any of the following topic areas: Advertising, agent supervision and broker responsibility, cross cultural communication, theory and practices of relocation, and accounting for real estate offices~~((Have a minimum of three hours of classroom work for the student. A classroom hour is a period of fifty minutes of actual classroom or workshop instruction, exclusive of examination time))~~;

~~((3))~~ (4) Be under the supervision of an approved instructor approved to teach the course in the classroom at all sessions and offered by an approved school provided that, if the instructional methods include the use of prerecorded audio and/or visual instructional materials, presentation shall be under the supervision of a monitor at all times and an approved instructor who shall, at a minimum, be available to respond to specific questions from students;

~~((4))~~ (5) Courses of thirty clock hours or more which are submitted as substantive real estate subject matter courses shall include a comprehensive examination(s) and answer key(s) of no fewer than three questions per clock hour with a minimum of ninety questions, and a requirement of passing course grade of at least seventy percent; essay question examination keys shall identify the material to be tested and the points assigned for each question;

~~((5))~~ (6) Include textbook or instructional materials approved by the director, which shall be kept accurate and current. Course materials shall be updated no later than thirty days after the effective date of a change in statute or rules;

~~((6))~~ (7) Include in its title the phrase "real estate fundamentals," "real estate brokerage management," ~~((or))~~ "real estate law," "business management," or "real estate practices" if submitted for approval for clock hours ~~((in real estate fundamentals pursuant to WAC 308-124H-035, real estate brokerage management pursuant to WAC 308-124H-036, or real estate law))~~ pursuant to WAC ~~((308-124H-037))~~ 308-124H-011. No other courses shall use these phrases in their titles;

~~((7))~~ (8) Not have a title which misleads the public as to the subject matter of the course;

~~((8))~~ (9) Be offered by a tax-supported, public vocational-technical institution, community college or any other institution of higher learning that may certify clock hours as indicated in RCW 18.85.010(9) or by a private entity approved by the director to operate as a school;

~~((9))~~ (10) Any change in course content or material other than updating for statute or rule changes, shall be submitted to the department no later than twenty days prior to the date of using the changed course content material, for approval by the director;

~~((10))~~ (11) Changes in course instructors may be made only if the substitute instructors are currently approved to teach the course pursuant to chapter 308-124H WAC;

~~((11))~~ (12) A course completed in another jurisdiction may be approved for clock hour credit if:

(a) The course was offered by a tax-supported, public vocational-technical institution, community college, or any other institution of higher learning, or by a national institution with uniform scope and quality of representation, or was approved to satisfy an education requirement for real estate licensing or renewal and offered by an entity approved to

offer the course by the real estate licensing agency in that jurisdiction; and

(b) The course satisfies the requirements of subsections (1) through ~~((5))~~ (6) of this section, and includes a comprehensive examination and requirement of a passing course grade of at least seventy percent; and/or

(c) If the director determines that the course substantially satisfies the requirements of the real estate fundamentals course required under RCW 18.85.095 or satisfies the requirements of the law ~~((and))~~, brokerage management and business management courses required under RCW 18.85.090.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

WAC 308-124H-041 Certificate of completion. Each approved school shall issue a certificate of completion on a form, sample provided by the department, to students which shall include the following information:

- (1) School's identification number issued by the department of licensing;
- (2) Student's name;
- (3) The course commencement date and completion date;
- (4) Course title;
- (5) Clock hours for the course;
- (6) School administrator's signature.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

WAC 308-124H-061 Grounds for denial or withdrawal of course approval. Approval may be denied or withdrawn if the instructor or any owner, employee, or administrator of a school:

- (1) Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;
- (2) Falsified any student records or clock hour certificates;
- (3) Falsified any application or any other information required to be submitted to the department;
- (4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);
- (5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;
- (6) Failed to cooperate with the department in any investigation or hearing;
- (7) Has been convicted of a crime;
- (8) Violated any of the provisions of any local, state, or federal antidiscrimination law;
- (9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;
- (10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours for which the course was approved;
- (11) Accepted registration fees and not supplied the service and/or failed to refund the fees within thirty days of not supplying the service;

(12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;

(13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";

(14) Advertised, published, printed, or distributed false or misleading information;

(15) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;

(16) Has failed to meet the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

WAC 308-124H-310 Grounds for denial or withdrawal of school approval. Approval may be denied or withdrawn if the instructor or any owner, employee, or administrator of a school:

- (1) Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;
- (2) Falsified any student records or clock hour certificates;
- (3) Falsified any application or any other information required to be submitted to the department;
- (4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);
- (5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;
- (6) Failed to cooperate with the department in any investigation or hearing;
- (7) Has been convicted of a crime;
- (8) Violated any of the provisions of any local, state, or federal antidiscrimination law;
- (9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;
- (10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours for which the course was approved;
- (11) Accepted registration fees and not supplied the service and/or failed to refund the fees within thirty days of not supplying the service;
- (12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;
- (13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";
- (14) Advertised, published, printed, or distributed false or misleading information;

(15) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;

(16) Has failed to meet the requirements of this chapter;

(17) Failed to teach a course consistent with the approved course content or curriculum.

AMENDATORY SECTION (Amending WSR 91-07-029, filed 3/14/91, effective 4/14/91)

WAC 308-124H-540 Qualifications of instructors.

Each instructor shall demonstrate competency based on guidelines established by the commission in the subject matter/topic that they propose to teach and shall be qualified in techniques of instruction.

Instructor qualifications in techniques of instruction shall be evidenced by one of the following:

(1) One hundred fifty classroom hours as an instructor within two years preceding application in courses acceptable to the director;

(2) Possession of the professional designation, DREI, from the Real Estate Educators Association (REEA);

(3) Successful completion of an instructor training course approved by the director upon recommendation of the commission and two years full-time experience in real estate or a related field within the five years immediately preceding the date of application;

(4) A bachelors or advanced degree in education and either two years teaching experience, or two years experience in real estate or a related field within the last five years;

(5) A current teaching certificate issued by an authorized governmental agency. The instruction must have been in a field allied to that which the instructor has applied to teach.

(6) At least ninety clock hours as an instructor in real estate within two years preceding the application;

(7) Ninety hours as an instructor at an institution of higher learning within two years preceding the application. The instruction must have been in a field allied to that which the instructor has applied to teach.

(8) Selection by a national or state association whose selection criteria have been approved by the director.

AMENDATORY SECTION (Amending WSR 90-10-010, filed 4/20/90, effective 8/1/90)

WAC 308-124H-570 Grounds for denial or withdrawal of instructor approval. Approval may be denied or withdrawn if the instructor:

(1) Has had any disciplinary action taken against his/her professional license in this or any other jurisdiction;

(2) Falsified any student records or clock hour certificates;

(3) Falsified any application or any other information required to be submitted to the department;

(4) Attempted in any manner to discover, or to impart to any license candidate, the content of and/or answer to any real estate license examination question(s);

(5) Violated any provision in chapter 18.85 RCW or the rules promulgated thereunder;

(6) Failed to cooperate with the department in any investigation or hearing;

(7) Has been convicted of a crime;

(8) Violated any of the provisions of any local, state, or federal antidiscrimination law;

(9) Continued to teach or offer any real estate subject matter whereby the interests of the public are endangered, after the director, by order in writing, stated objections thereto;

(10) Offered, sold, or awarded any clock hours without requiring the student to successfully complete the clock hours which the course was approved.

(11) Accepted registration fees and not supplied the service or failed to refund the fees within thirty days of not supplying the service;

(12) Represented in any manner that the school is associated with a "college" or "university" unless it meets the standards and qualifications of and has been approved by the state agency having jurisdiction;

(13) Represented that a school is recommended or endorsed by the state of Washington or by the department, provided that a school authorized to offer clock hours under this chapter may state: "This school is approved under chapter 18.85 RCW";

(14) Advertised, published, printed, or distributed false or misleading information;

(15) Solicited, directly or indirectly, information from applicants for a real estate license following the administration of any real estate examination to discover the content of and/or answer to any examination question or questions;

(16) Has failed to meet the requirements of this chapter;

(17) Failed to teach a course consistent with the approved course content or curriculum.

AMENDATORY SECTION (Amending WSR 91-12-012, filed 5/30/91, effective 6/30/91)

WAC 308-124H-800 Real estate course, school, and instructor approval fees. The following fees shall be charged by the department of licensing for applications for approval of real estate courses, schools offering the courses, and instructors. These fees shall be effective on and after July 1, ((1994)) 1995.

(1) Application((~~reapplication~~)) for course approval - a fee of \$5.00 per clock-hour credit being offered, with a minimum fee of \$50.00 per course. Except, the application fee for approval of the sixty clock-hour course in real estate fundamentals shall be \$150.00.

An application fee shall accompany each application. Approval, if granted, shall be for two years from the date of approval. Courses approved prior to the effective date for this rule, need not apply for re-approval until the expiration of the current two-year approval period. Applications submitted and disapproved may be resubmitted at no additional fee.

(2) Application((~~reapplication~~)) for school approval a fee of \$250.00 fee provides for two-year approval.

An application fee shall accompany each application. An application for school approval must include application for approval of the school's administrator. A school will not be approved unless the school's administrator is also approved. Approval, if granted, shall be for two years from

the date of approval. All schools approved after August 1, 1990 and prior to the effective date of this rule, need not apply for re-approval until expiration of the current two-year approval period. Applications submitted and disapproved may be resubmitted at no additional fee.

(3) Application (~~renewal~~) for instructor approvals:

(a) Approval to teach a specific course on one occasion - a fee of \$50.00;

(b) Approval to teach as many subject areas as requested at time of initial application (~~or renewal~~) - a fee of \$75.00. Approval shall be for two years from the approval date;

(c) Approval to teach additional subject area(s) not requested at time of initial application or renewal - a fee of \$25.00 for each application to teach additional subject area(s). Approval, if granted, shall be for remainder of two-year approval period.

Applications submitted under (a), (b) and (c) above, and disapproved may be resubmitted at no additional fee.

An application fee shall accompany each application. Instructors approval to teach a specific course prior to the effective date of this rule, need not apply for reapproval until the expiration of the current two-year approval period. However, those instructors who wish approval to teach an additional subject area(s), must file an application and pay the appropriate \$25.00 application fee.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-124H-035 Real estate fundamentals course content.
 WAC 308-124H-036 Real estate brokerage management course content.
 WAC 308-124H-037 Real estate law course content.
 WAC 308-124H-080 Courses for license activation.

WSR 95-03-024
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION

[Order 94-135—Filed January 10, 1995, 1:00 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-089 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
 Chairman

AMENDATORY SECTION [(Amending Order 640, filed 5/10/94)]

WAC 232-28-02202 Game management units (GMUs)—Special game areas—Boundary descriptions—Region two.

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

GMU 203-PASAYTEN (Okanogan and Whatcom counties): Beginning at the (~~western boundary of the Pasayten Wilderness~~) junction of the Pacific Crest Trail and the Washington-Canadian border; ((near Princess Creek;)) then east along the Canadian border to the eastern boundary of the Pasayten Wilderness near Goodenough Peak; then south on the Pasayten Wilderness Boundary to Trail 341; then west and south on Trail 341 to ((the Iron Gate Road)) its junction with Trail 533 and Trail 343; then west on Trail 343 to Trail 342; then southwest on Trail 342 to the Pasayten Wilderness Boundary; then west on the wilderness boundary to the Hidden Lakes Trail 477; then west on Hidden Lakes Trail to Drake Creek; then southwest along Drake Creek to the Lost River Gorge; then southwest along the Lost River Gorge to the Pasayten Wilderness Boundary; then west on the Pasayten Wilderness Boundary to the Robinson Creek Trail 478; then north on the Robinson Creek Trail to the Ferguson Lake Trail; then west to Silver Lake and west to the West Fork of the Pasayten River; then west to Oregon Basin and (~~the western boundary of the Pasayten Wilderness~~) Jim Pass on the Pacific Crest Trail; then north on the (~~wilderness boundary~~) Pacific Crest Trail to the Washington-Canadian border (~~near Princess Creek~~) and the point of beginning. (See Okanogan National Forest Travel Plan)

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

GMU 209-WANNACUT (Okanogan County): Beginning at the Canadian border station near Nighthawk on the Washington-Canadian border; then east on the border to the west shore of Lake Osoyoos; then south along the west shore of Lake Osoyoos and the Okanogan River to the bridge at Tonasket and County Road 7 (9400); then south on County Road 7 to the North Pine Creek-Aeneas Lake Road (9437) then southwest on the Pine Creek-Aeneas Lake Road to the Horse Springs Coulee Road (~~((4271))~~) (4371); then (~~north-west~~) north on the Horse Springs Coulee Road to the

Loomis-Oroville Highway (9425) near Spectacle Lake; then west on the Loomis-Oroville Highway to Loomis; then north on the Loomis-Oroville Highway past Palmer Lake to Nighthawk and the Allemandi Road; then north on the Allemandi Road to the Similkameen Road; then north on the Similkameen Road to the border station on the Washington-Canadian border and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 215-SINLAHEKIN (Okanogan County): Beginning at the eastern boundary of the Pasayten Wilderness and the Washington-Canadian border; then east on the border to the border station near Nighthawk and the Similkameen Road; then southeast on the Similkameen Road to the Allemandi Road; then south on the Allemandi Road to Nighthawk and the Loomis-Oroville Road (USFS Road 9425); then south on the Loomis-Oroville Road through Loomis to the Horse Springs Coulee Road (USFS Road 4371) near Spectacle Lake; then south on the Horse Springs Coulee Road to the Aeneas Lake-Pine Creek Road (USFS Road 9400); then northeast on the Aeneas Lake-Pine Creek Road to the Okanogan River; then south along the Okanogan River to the town of Riverside and U.S. Highway 97; then north on U.S. Highway 97 to the South Pine Creek-Fish Lake Road (USFS Road 9410); then west on the South Pine Creek-Fish Lake Road along the south shore of Fish Lake to the Conconully-Sinlahekin Road (USFS Road 4015); then southwest on the Conconully-Sinlahekin Road along the north shore of Conconully Lake to Conconully and the Salmon Creek North Fork Road (USFS Roads 2361, 38, and 2820); then north on the Salmon Creek North Fork Road over Lone Frank Pass to USFS Road 39; then north on USFS Road 39 to Long Swamp and the Middle Fork Toats Coulee Road; then east on the Middle Fork Toats Coulee Road (USFS Road 39) to Iron Gate Road (USFS Road 500); then northwest on Iron Gate Road to its end; then north and east on Trails 533 and 341 to the eastern boundary of the Pasayten Wilderness; then north on the wilderness boundary to the Washington-Canadian border and the point of beginning. (See Okanogan National Forest Travel Plan)

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

~~Basin))~~ Pacific Crest Trail crossing on Highway 20; then north on the Pacific Crest Trail to Jim Pass and the point of beginning. (See Okanogan National Forest Travel Plan)

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

GMU 231-GARDNER (Okanogan County): Beginning ~~((at the Okanogan County line and the North Cascade Highway (State Highway 20)))~~ where the Pacific Crest Trail crosses State Highway 20; then ~~((northeast))~~ south and east on ~~((the North Cascade))~~ State Highway 20~~((;))~~; south through the Methow Valley, south through Winthrop to the Twisp River Road at Twisp; then ~~((east))~~ west on the Twisp River Road to North Fork Twisp River Trail 432; then north on Trail 432 to Trail 426; then north and west on Trail 426 to the ~~((Okanogan County line at Copper Pass))~~ Pacific Crest Trail; then north on the ~~((county line))~~ Pacific Crest Trail to ~~((the North Cascade))~~ State Highway 20 and the point of beginning. (See Okanogan National Forest Travel Plan)

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

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

GMU 242-ALTA (Okanogan County): Beginning at ~~((Copper Pass on the Okanogan-Chelan County line))~~ the junction of the Pacific Crest Trail and ((the North Fork Twisp River)) Trail 426; then east and south along Trail 426((; then southeast along the North Fork Twisp River Trail to Roads End Campground and)) to Trail 432; then east on Trail 432 to Roads End Campground and the Twisp River Road (County Road 9114 and USFS Road 4440); then east on the Twisp River Road to Twisp and State Highway 153; then south on State Highway 153 to Pateros and the Columbia River; then south along Lake Pateros to Wells Dam and U.S. Highway 97; then south on U.S. Highway 97 to Apple Acres Road (USFS Road 8140); then west on Apple Acres Road to Antoine Creek Road (USFS Road 8140); then northwest on the Antoine Creek Road to USFS Road 8020; then north on the USFS Road 8020 to its junction with the South Navarre Road and the South Fork Gold Creek Road (USFS Road 8200 and 4330); then north on the South Fork Gold Creek Road to the Okanogan-Chelan County line; then northwest on the Okanogan-Chelan County line to ((Copper Pass)) the intersection of Trail 426 and the point of beginning. (See Okanogan National Forest Travel Plan)

GMU 248-BIG BEND (Douglas and Grant counties): Beginning on State Highway 17 at the Chalk Hills Road (Road K N.E.); then north on the Chalk Hills Road (K & L N.E.) for 4 miles to the east line of Range 26 East; then north on the east line of Range 26 to the Columbia River; then east along the Columbia River to Grand Coulee Dam and the Feeder Canal; then southwest along the Feeder Canal to Banks Lake; then south along the west shore of Banks Lake to a point due east from Mold Road (Road 9 N.E.); then west from that point on Mold Road through Mold to State Highway 17; then north along State Highway 17 to Sim's Corner and State Highway 172; then west on State Highway 172 through Mansfield to Mathieson Road (Road B N.E.); then north on the Mathieson Road and the West Foster Creek Road (Bridgeport Hill Road) to State Highway 17; then east on State Highway 17 to the Chalk Hills Road (Road K N.E.) and the point of beginning. (See Washington Atlas & Gazetteer)

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

GMU 260-FOSTER CREEK (Douglas County): Beginning at Brewster and the Douglas-Okanogan County line; then east on the county line (Columbia River) past Bridgeport to the east line of Range 26 East; then south on the east line of Range 26 East to Road L N.E.; then south on Road L N.E. to the Chalk Hills Road (K & L N.E.); then southwest on the Chalk Hills Road to State Highway 17; then west on State Highway 17 to the Bridgeport Hill Road; then

south on the Bridgeport Hill Road to the Dyer Hill Road; then north on the Dyer Hill Road to Dyer and the Bonita Flat Road; then west on the Bonita Flat Road to the Columbia River (opposite the Okanogan-Chelan County line); then north along the river to Brewster and the point of beginning. (See Washington Atlas & Gazetteer)

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

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

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

GMU 272-BEEZLEY (Grant and Douglas counties): Beginning at the junction of Grant, Lincoln and Okanogan County lines near the town of Grand Coulee; then south on the Grant County line to Interstate 90; then west on Interstate 90 to the Grant-Kittitas County line (Columbia River); then north on the county line to the Crescent Bar Road; then northeast on the Crescent Bar Road to the Baird Springs

Road near Trinidad; then northeast on the Baird Springs Road across State Highway 28 to the Overen Road; then northeast on the Overen Road to the 20 N.W. Road; then east on the 20 N.W. Road to the J N.W. Road; then north on the J N.W. Road to the Sagebrush Flats Road; then north on the Sagebrush Flats Road to the Grant-Douglas County line and the Moses Coulee Road; then north on the Moses Coulee Road to U.S. Highway 2; then east on U.S. Highway 2 to the west shore of Banks Lake; then north along the west shore of Banks Lake to the feeder canal and to Grand Coulee Dam; then up river to the Grant-Lincoln County line and the point of beginning. (See Washington Atlas & Gazetteer)

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

GMU 281-RINGOLD (Franklin, Adams and Grant counties): Beginning at the Vernita Bridge on the west shore of the Columbia River and State Highway 24; then north and east on State Highway 24 to State Highway 26 at Othello; then east on State Highway 26 to State Highway 17; then south on State Highway 17 to U.S. Highway 395; then south on U.S. Highway 395 through Pasco and the west shore of the Columbia River (Franklin-Benton County line); then north along the Columbia River (including all islands) to the Vernita Bridge and the point of beginning. The Hanford Nuclear Site and the Saddle Mountain National Wildlife Refuge are closed to unauthorized public entry. (See Washington Atlas & Gazetteer)

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

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

**WSR 95-03-025
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-136—Filed January 10, 1995, 1:01 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-090 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 641, filed 5/10/94)]

WAC 232-28-02203 Game management units (GMUs)—Special game areas—Boundary descriptions—Region three.

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

GMU 301-CLARK (Chelan County): Beginning where the Stehekin River flows into Lake Chelan; then southeast along the south shore of Lake Chelan to the south boundary of the Chelan National Recreation Area Boundary (south of Riddle Creek); then southwest on the Recreation Area Boundary to the Glacier Peak Wilderness Boundary; then ~~((southwest))~~ south, west, and north on the wilderness boundary to the Pacific Crest Trail at Kodak Peak; then north on the Pacific Crest Trail to North Cascades National Park; then north and east on the North Cascades National Park boundary to Hock Mountain; then south along the Lake Chelan Wilderness Boundary to McAlester Mountain; then southwest on the ridge between Rainbow Creek and Boulder Creek to the Stehekin River and the point of beginning. ~~((White Pass and~~

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~~the Chelan-Snohomish County line; then north on the county line to Hurry-up Peak near Trapper Lake and the Glacier Peak Wilderness Boundary; then east on the wilderness boundary to Agnes Creek and the Lake Chelan National Recreation Area Boundary; then northeast on the recreation boundary to Hoek Mountain and the Chelan-Okanogan County line; then southeast on the county line to McAlester Mountain and the ridge between Rainbow Creek and Boulder Creek; then southwest on the ridge to the Stehekin River and the point of beginning.~~) (See Wenatchee National Forest map and the Glacier Peak Wilderness Forest map)

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

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

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

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

five Mile Creek; then north along Twenty-five Mile Creek to Lake Chelan and the point of beginning. (See Wenatchee National Forest map)

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

GMU 316-SWAKANE (Chelan County): Beginning at Stevens Pass on U.S. Highway 2; then east on U.S. Highway 2 to Coles Corner and State Highway 207; then north on State Highway 207 to State Highway 209 near Lake Wenatchee; then southeast on State Highway 209 to the Eagle Creek Road (USFS Road 7520); then northeast on Eagle Creek Road to French Corral and USFS Road 5800; then northeast on USFS Road 5800 to the Mad River Road (USFS Road 5700); then southeast on the Mad River Road to Ardenvoir and the Entiat River; then southeast along the Entiat River to the Columbia River; south along the Columbia River to the Wenatchee River; then northwest along the Wenatchee River to Leavenworth and Icicle Creek; then south and northwest along Icicle Creek to the Alpine Lakes Wilderness Boundary; then north on the Alpine Lakes Wilderness Boundary to the Pacific Crest Trail near Josephine Lake; then north on the Pacific Crest Trail to Stevens Pass and the point of beginning. (See Wenatchee National Forest map)

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

GMU 329-QUILOMENE (Kittitas and Chelan counties): Beginning on the Columbia River at the mouth of Colockum Creek; then south along the Columbia River to Davies

Canyon; then west along Davies Canyon to Road 14; then south and west on Road 14 to the boundary sign in the northwest quarter of Section 17 (T20N, R22E); then south to the boundary sign on Road 14 along the section lines between Sections 17, 18, 19 and 20; then east on Road 14 to Road 14.14; then east on Road 14.14 and north along the stock fence to the northern point of Cape Horn; then south along the top of the cliff and southeast to Road 14.14; then south on Roads 14.14, 14.17 and 14 to Tekison Creek; then south along Tekison Creek to the Columbia River; then south along the Columbia River to Vantage and Interstate Highway 90; then west on Interstate Highway 90 to the East Highline Canal; then north on the East Highline Canal to the Colockum Pass Road (Road 10); then north on the Colockum Pass Road to Colockum Creek; then northeast along Colockum Creek to the Columbia River and the point of beginning. (See Department of Fish and Wildlife Naneum Green Dot map)

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

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

GMU 335-TEANAWAY (Kittitas County): Beginning at Snoqualmie Pass on the Pacific Crest Trail; then north on the Pacific Crest Trail to the Alpine Lakes Wilderness Boundary; then east on the Alpine Wilderness Boundary to the Chelan-Kittitas County line; then southeast on the county line and Trail 1226 to Swauk Pass and U.S. Highway 97; then south on U.S. Highway 97 to State Highway 10; then

northwest on State Highways 10, 970, 903 to Cle Elum and Interstate 90; then west on Interstate 90 to Snoqualmie Pass and the Pacific Crest Trail and the point of beginning. (See Wenatchee National Forest map)

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

GMU 340-MANASTASH (Kittitas County): Beginning at Quartz Mountain and Peaches Ridge (Trail 1363); then north and east on Trail 1363 to Trail 1367; then southeast on Trail 1367 to the South Fork Taneum Creek; then east along the South Fork Taneum Creek to Taneum Creek; then east along Taneum Creek to the elk fence; then southeast along the elk fence to Bradshaw Road; then east on Bradshaw Road to the South Branch Highline Canal; then southeast along the South Branch Highline Canal to the Wenas-Ellensburg Road (at Shushuskin Canyon); then north on the Wenas-Ellensburg Road to the Damon Road; then north on the Damon Road to the Yakima River; then south along the Yakima River to Umtanum Creek; then west along Umtanum Creek to the Wenas-Ellensburg Road; then west on the Wenas-Ellensburg Road to Ellensburg Pass and the Observatory Road (Section 6, T16N, R17E); then north on the Observatory Road to Manastash Ridge (Section 20, T17N, R17E, W.M.); then northwest along the Manastash Ridge to Trail 1388; then northwest on Trail 1388 to Quartz Mountain and Peaches Ridge Trail and the point of beginning. (See Wenatchee National Forest map)

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

GMU 346-LITTLE NACHES (Yakima and Kittitas counties): Beginning at Blowout Mountain and the USFS Road 1388; then east on USFS Road 1388 to USFS Road 1701 near the USFS fence; then south on USFS Road 1701 to State Highway 410; then northwest and southwest on

State Highway 410 to the Pacific Crest Trail near Chinook Pass; then north on the Pacific Crest Trail to Blowout Mountain and the point of beginning. (See Wenatchee National Forest map)

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

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

GMU 360-BETHEL (Yakima County): Beginning on USFS 1500 and Highway 410 at Nile; then southeast on Highway 410 to Highway 12; then southwest on Highway 12 to USFS 1500; then north and east on USFS 1500 to Nile and the point of beginning. (See Wenatchee National Forest Recreation map)

GMU 364-RIMROCK (Yakima County): Beginning on the Pacific Crest Trail and Highway 12 at White Pass; then east on Highway 12 to Windy Point and the Jump Off Road (USFS 1302); then southwest on Jump Off Road to Divide Ridge Jeep Trail 1127 at Jump Off Lookout; then southeast on Divide Ridge Jeep Trail to DNR Road 1020 near Strobach Springs; then west on DNR Road 1020 to Blue Slide Lookout; then south on the jeep trail to Blue Lake; then south on the jeep trail to the Darland Mountain Road and the north boundary of the Yakima Indian Reservation; then west on the Yakima Indian Reservation boundary to the Pacific Crest Trail; then north on the Pacific Crest Trail to Highway 12 at White Pass and the point of beginning. (See Wenatchee National Forest Recreation map)

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

GMU 368-COWICHE (Yakima County): Beginning on Highway 12 and Jump Off Road near Windy Point; then northeast and southeast on Highway 12 to the Yakima River; then south along the Yakima River to the Yakima Indian Reservation boundary south of Union Gap; then west on the

reservation boundary to Darland Mountain; then north on the jeep trail past Blue Lake to Blue Slide Lookout; then northeast on DNR Road 1020 to Divide Ridge Trail 1127 near Strobach Springs; then northeast on the Divide Ridge Trail 1127 to the Jump Off Lookout and the Jump Off Road (USFS Road 1302); then northeast on the Jump Off Road to Highway 12 and the point of beginning. (See Wenatchee National Forest Recreation map)

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

GMU 371 ALKALI (Kittitas and Yakima counties): Beginning one mile south of Thrall and Highway 821 at the Yakima River and the East High Canal; then east and north along the East High Canal to Interstate Highway 90; then east on Interstate Highway 90 to Vantage and the Columbia River; then south along the Columbia River to Highway 24 (Vernita Bridge); then south and west along Highway 24 to the Yakima River; then north along the Yakima River to the East High Canal and the point of beginning. (See Washington Atlas and Gazetteer)

GMU 372 KIONA (Benton and Yakima counties): Beginning on Highway 24 and the Columbia River at the Vernita Bridge; then east and south along the Columbia River (Yakima, Grant, Benton, and Walla Walla County line) to the Alderdale Road; then north on the Alderdale Road to the Klickitat-Yakima County line; then west on the county line to the Yakima Indian Reservation boundary; then northeast on the reservation boundary to the Mabton-Sunnyside Road; then north on the Mabton-Sunnyside Road to the Yakima River; then northwest along the Yakima River to Highway 24; then east along Highway 24 to the Vernita Bridge and the point of beginning. The Hanford Nuclear Reservation is closed to all unauthorized public entry. (See Washington Atlas & Gazetteer)

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

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

WSR 95-03-026
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION

[Order 94-137—Filed January 10, 1995, 1:04 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-091 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn

Chairman

AMENDATORY SECTION [(Amending Order 642, filed 5/10/94)]

WAC 232-28-02204 Game management units (GMUs)—Special game areas—Boundary descriptions—Region four.

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

GMU 410-ISLANDS (San Juan and Island counties): Beginning at the north corner of San Juan-Whatcom County line; then southeast on the county line to the Skagit-Whatcom County line; then east on the county line to the shore of Samish Bay; then south on the shoreline near Edison; then west through Samish Bay and south through Bellingham Channel to the Skagit-San Juan County line; then south through Rosario Strait on the San Juan-Skagit County line to the Island County line; then east on the Skagit-Island County line through Deception Pass and south through Skagit Bay; then southeast on the Island-Snohomish County line through Juniper Beach, Port Susan, Possession Sound to the Island-Kitsap County line; then northwest on the Island-Kitsap-Jefferson County line through Puget Sound, Admiralty Inlet, and the Strait of Juan De Fuca; then west

on the San Juan-Jefferson-Clallam County lines to the Canadian border; then north on the Canadian border through Middle Bank, Haro Strait, and Boundary Pass to the north corner of San Juan-Whatcom County line and the point of beginning. (See Washington Atlas & Gazetteer)

GMU 417-BALD MOUNTAIN (Whatcom and Skagit counties): Beginning at the intersection of the Mosquito Lake Road and the Middle Fork Nooksack River Road (Section 11, T38N, R05E); then east on the Middle Fork Nooksack River Road to Clearwater Creek; then north and east up Clearwater Creek to the end of USFS 36 Road (Section 8, T38N, R07E); then north and east on USFS 36 Road to USFS 39 Road; then north along USFS 39 Road to SR 542 Road; then east and south along SR 542 Road to its southernmost point (Section 30, T39N, R09E); then approximately 0.5 miles along a straight line to Swift Creek; then south down Swift Creek to Baker Lake; then south along the west shoreline of Baker Lake and Lake Shannon to the lower Baker Dam; then south down the Baker River to SR 20; then west along SR 20 to Burpee Hill Road; then north along Burpee Hill Road to Baker Lake Road; then west along the Baker Lake Road to SW-HO-2400 Road; then north and west along the SW-HO-2400 Road, SW-HO-2000 Road, SW-HO-2800 Road, and SW-HO-2900 Road (Josephine Truck Trail) to the intersection with the Crown Pacific 100 Road (Hamilton Mainline); then north along the Crown Pacific 100 Road (approximately .25 miles) to the intersection with Crown Pacific 110 Road; then continue west and north along the Crown Pacific 110 Road to the Crown Pacific 130 Road; then continue north and west along the Crown Pacific 130 Road to the Crown Pacific 170 Road; then continue west along the Crown Pacific 170 Road to the Crown Pacific 171 Road; then continue west along the Crown Pacific 171 Road to the Crown Pacific 172 Road; then north to the end of the Crown Pacific 172 Road (Section 10, T36N, R05E); then north to the end of the Crown Pacific 175 Road (DNR Radio Repeater); then north along a straight line to the end of John Hancock Road No. 1; then north and east along John Hancock Road No. 1 to Christie Creek*; then east down Christie Creek to the South Fork Nooksack River; then down the South Fork Nooksack River to the mouth of Hutchinson Creek; then north up Hutchinson Creek to the Mosquito Lake Road; then continue north along Mosquito Lake Road to the Middle Fork Nooksack Road and the point of beginning. (See Washington Atlas & Gazetteer) *Map of this portion of GMU 417 available upon request at the Mill Creek regional office.

GMU 418-NOOKSACK (Whatcom and Skagit counties): Beginning at the Silver Lake Road and the Canadian border; then east on the Canadian border to the North Cascades National Park Boundary; then south on the North Cascades National Park Boundary to the range line between Range 9 and 10 East; then south on this range line to Jackman Creek; then south along Jackman Creek to the Skagit River; then west along the main channel of the Skagit River to Highway 9; then north along Highway 9 to its intersection with Highway 20 (West Sedro Woolley); then east along Highway 20 to its intersection with Valley Highway 9 (East Sedro Woolley); then north along Valley Highway 9 to Mosquito Lake Road; then north on the Mosquito Lake Road to Mount

Baker Highway 542; then north on Mount Baker Highway 542 to the Silver Lake Road; then north on the Silver Lake Road and the Canadian border to the point of beginning except GMU 417 (Bald Mountain) which is within GMU 418 (Nooksack). (See Washington Atlas & Gazetteer)

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

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

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

GMU 442-TULALIP (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River near Stanwood; then east along the Stillaguamish River to

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

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

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

point of beginning. (See Mt. Baker-Snoqualmie National Forest and Wenatchee National Forest maps)

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

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

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

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

the Carbon River; then northwest along the Carbon River to Bonneville Power Transmission Line; then northeast along the transmission line to South Prairie Creek; then north along South Prairie Creek to intersection with Champion ownership line (Section 14, T19N, R6E); then east and north along Champion ownership line to the White River (along west line of Section 6, T19N, R7E); then southeast along the White River to the Bonneville Power Line on the north side of the river near Mud Mountain Dam Road; then northeast on the transmission lines to State Highway 410; then east on State Highway 410 to USFS Road 7110; then north on USFS Road 7110 to the City of Tacoma Green River Watershed and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (See Washington Atlas & Gazetteer, U.S. Forest Service White River-Norse Peak Wilderness map, and Champion Timberlands Visitors Recreation map)

GMU 478-MASHEL (Pierce County): Beginning at the Bonneville Power Transmission Line at the Puyallup River bridge on the Orville Road East; then northeast on the Bonneville Power Transmission Line to the Fisk Road; then southeast on the Fisk Road to Champion's 12 Road; then northeast on Champion's 12 Road to the Carbonado-Electron powerline; then northeast on the powerline to the Carbon River; then southeast along the Carbon River to the west boundary of Mt. Rainier National Park; then south on the park boundary to the Nisqually River; then west on the Nisqually River (Pierce-Lewis County line) to Weyerhaeuser 1000 (Main Line); then northeast on the Weyerhaeuser 1000 to Highway 161 (Eatonville-LaGrande Road); then northeast on Highway 161 through Eatonville to Orville Road East (Kapowsin-Eatonville Road); then north on the Orville Road East to the Puyallup River bridge and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (See Washington Atlas & Gazetteer, Mt. Baker-Snoqualmie National Forest map, and Champion Timberlands Visitors Recreation map)

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

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

Carbon River to the Carbonado/Electron powerline; then southwest on the powerline to the Champion 12 Road; then southwest on the Champion Road to Fisk Road; then northwest on the Fisk Road to the Bonneville Power Transmission Line; then southwest on this transmission line to the Puyallup River bridge and the Orville Road East; then south on the Orville Road East to State Highway 161; then south on the Weyerhaeuser 1000 line to the Nisqually River (Pierce-Thurston County line); then northwest along the Nisqually River to Puget Sound; then north along the shore of Puget Sound to Redondo and the point of beginning, except Private Lands Wildlife Management Area 401 (Champion). (See Washington Atlas & Gazetteer, Mt. Baker-Snoqualmie National Forest map, and Champion Timberlands Visitors Recreation map)

GMU 485-GREEN RIVER (King County): Beginning at the northwest corner of the Green River Watershed; then east on the boundary between the Green River Watershed and the Cedar River Watershed to the USFS Road 5060; then south on the USFS Road 5060 to the posted boundary of the Green River Watershed; then along the southern boundary of the Green River Watershed over Huckleberry Mountain and Grass Mountain and across the Green River to the northwest corner of the Green River Watershed and the point of beginning. (See White River Ranger District map, and North Bend Ranger District map of the Mt. Baker-Snoqualmie National Forest)

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

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

WSR 95-03-027
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION

[Order 94-138—Filed January 10, 1995, 1:07 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—Region five.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—Region five.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-092 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 643, filed 5/10/94)]

WAC 232-28-02205 Game management units (GMUs)—Special game areas—Boundary descriptions—Region five.

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

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

GMU 505-MOSSYROCK (Lewis County): Beginning on Interstate 5 and the Cowlitz River; then northeast up the Cowlitz River to Mayfield Lake and the U.S. Highway 12 bridge; then east on U.S. Highway 12 to Winston Creek Road; then south and east to Longbell Road and Perkins Road; then northeast on Perkins Road to Swofford Road; then north on Swofford Road to Ajlune Road; then east on Ajlune Road to Riffe Lake; then east along the south shore of the Cowlitz River and up the Cowlitz River to the USFS 23 Road (Cispus Road) Bridge; then south and east to the C Line Road; then east to the Bennet Road; then east to U.S. Highway 12; then west on Highway 12 to State Highway 7 (Morton); then north on State Highway 7 to State Highway 508; then west on Highway 508 to Centralia/Alpha Road; then west and north on Centralia/Alpha Road to Salzer Valley Road; then west to Summa Street and Kresky Road; then north on Kresky Road to Tower Street; then on Tower Street to State Highway 507; then west on Highway 507 Cherry, Alder and Mellen Streets to Interstate 5; then south on Interstate 5 to the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

GMU 506-WILLAPA HILLS (Wahkiakum, Pacific and Lewis counties): Beginning at Pe Ell and the Muller Road; then south on the Muller Road to the 1000 Road; then south on the 1000 Road to the 1800 Road; then south on the 1800 Road to the 500 Road; then southeast on the 500 Road to State Highway 407 (Elochoman Valley Road); then south on

~~((State Highway 407 (Elochoman Valley Road) to State Highway 4; then east on State Highway 4 to State Highway 409; then south on State Highway 409 to the Columbia River/Puget Island Bridge;))~~ the Elochoman Valley Road (old SR 407) to the Elochoman River; then downstream along the Elochoman River to the Foster Road; then north on Foster Road to Risk Road; then west and north along Risk Road to SR 4; then west on SR 4 to Skamokawa Creek; then downstream along Skamokawa Creek to the confluence with the Columbia River; then west along Columbia River to the mouth of the Deep River; then north along the Deep River to State Highway 4; then northwest on State Highway 4 to the Salmon Creek Road; then north on the Salmon Creek Road to the Bonneville Powerline Road; then north on the Bonneville Powerline Road to State Highway 6; then east on State Highway 6 to the Town of Pe Ell and the point of beginning. (See Washington Atlas & Gazetteer, Forest Protection map "Willapa Hills")

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

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

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

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

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

GMU 522-LOO-WIT (Cowlitz and Skamania counties): Beginning on the North Fork Toutle River at the mouth of Hoffstadt Creek; then southeast up the North Fork Toutle River to the Weyerhaeuser 3001 Road; then southeast along the 3001, 3000, and 3090 Roads to the headwaters of the South Fork Castle Creek; then due south to the South Fork Toutle River; then east along South Fork Toutle to its headwaters and Mount St. Helens crater edge; then east along the crater edge to the headwaters of Ape Canyon; then down Ape Canyon Creek to the USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then north along USFS 99 Road to USFS 26 Road; then north to Strawberry Lake Creek; then west down Strawberry Lake Creek to the Green River; then across the Green River to Grizzly Creek; then up Grizzly Creek to Grizzly Lake; then west up the western inlet to its headwaters; then west to the headwaters of Coldwater Creek; then west down Coldwater Creek to Coldwater Lake; then southwest along the northwest shore to the old Weyerhaeuser 3500 Road; then west along the 3500, 3530, 3540, 3130, and 3120 Roads to the intersection with Hoffstadt Creek; then down Hoffstadt Creek to the North Fork Toutle River and point of beginning. (See Gifford Pinchot National Forest map)

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

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

GMU 550-COWEEMAN (Cowlitz County): Beginning at the mouth of the Cowlitz River; then north to the Toutle River; then east along the Toutle River to the South Fork Toutle River; then up the South Fork Toutle to the 4950 Road; then south and east on the 4950 Road to the 235 Road; then south on the 235, 200, 245, 134, 133, 130 and 1680 Roads to the 1600 Road; then southeast along the 1600 and 1400 Roads to the Kalama/Coweeman Summit; then south along the 1420 Road to the 1425 Road; then southwest along the 1425 Road to the 6400 Road; then southwest down the 6400 Road to the 6000 Road; then east to the 6450 Road; then southeast approximately one mile on the 6450 Road to the Arnold Creek Road; then southeast on Arnold Creek Road to Dubois Road; then to State Highway 503; then west on State Highway 503 to Cape Horn Creek; then

down Cape Horn Creek to Merwin Reservoir and the Lewis River; then down the Lewis River to the Columbia River; then down the Columbia River to the mouth of the Cowlitz River and point of beginning. (See Washington Atlas & Gazetteer)

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

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

GMU 558-MARBLE (Cowlitz and Skamania counties): Beginning on State Highway 503 (Lewis River Road) and USFS 81 Road intersection; then north on USFS 81 Road to Weyerhaeuser 7200 Road; then northeast on the 7200 Road to the 7400 Road; then northwest on the 7400 Road to the 5500 Road; then east and north on the 5500 and 5670 Roads to the South Fork Toutle River; then east up the South Fork Toutle River to Mount St. Helens crater and along crater to headwaters of Ape Canyon; then east down Ape Canyon Creek to USFS Smith Creek Trail then north up USFS Smith Creek Trail to USFS 99 Road; then northeast on USFS 99 Road to USFS 25 Road; then south on USFS 25 Road to the Muddy River; then south down the Muddy River to the North Fork Lewis River; then west down the North Fork

Lewis River, Swift Reservoir to Yale Reservoir and Dog Creek; then north up Dog Creek to State Highway 503; then southwest to USFS 81 Road and point of beginning. (See Gifford Pinchot National Forest map)

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

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

GMU 568-WASHOUGAL (Clark and Skamania counties): Beginning at Merwin Dam on the Lewis River and Lake Merwin; then northeast along Lake Merwin (Cowlitz-Clark County line) to Canyon Creek; then southeast along Canyon Creek to N.E. Healy Road; then east on N.E. Healy Road to USFS Road 54; then east on USFS Road 54 to USFS Road 37; then northwest on USFS Road 37 to USFS Road 53; then south on USFS Road 53 to USFS Road 4205 (Gumboat Road); then south on USFS Road 4205 to USFS Road 42 (Green Fork Road); then southwest on USFS Road 42 to USFS Road 41 (Sunset Hemlock Road) at Sunset Falls; then east on USFS Road 41 to USFS Road 406 at Lookout Mountain; then southeast on USFS Road 406 to the boundary of the Gifford Pinchot National Forest; then due

east on the National Forest Boundary to Rock Creek; then southeast along Rock Creek to Stevenson and the Columbia River; then west down the Columbia River (including the islands in Washington) to the Cape Horn Road; then north on the Cape Horn Road to State Highway 140; then west on State Highway 140 to the Washougal River Road; then northwest on the Washougal River Road to the Skye Road; then northwest on the Skye Road to N.E. 412th Avenue; then northwest on DNR 1500 Road to DNR 1000 Road; then north and west on DNR 1000 Road to Dole Valley Road; then north on the Dole Valley Road to County Road 12; then northwest on County Road 12 to Moulton and County Road 16; then northwest on County Road 16 through Yacolt and Amboy to the Pup Creek Road; then northwest on the Pup Creek Road to County Road 20; then north on County Road 20 to the transmission line; then north on the transmission line to Merwin Dam on the Lewis River and the point of beginning. (See Gifford Pinchot National Forest map and Washington Atlas & Gazetteer)

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

GMU 574-WIND RIVER (Skamania County): Beginning at Little Lookout Mountain on USFS Road 41 (Sunset-Mowich Butte); then east on USFS Road 41 to Stabler; then east on the Hemlock Road to the Wind River Road; then southeast on the Wind River Road to USFS Road 65 (Panther Creek Road); then north on USFS Road 65 to Old State Road; then east to the USFS Road 60 (Carson-Guler Road); then northeast on USFS Road 60 to USFS Road 24 and State Highway 141 to USFS Road 86; then south on USFS Road 86 to USFS Road 1840; then south on USFS Road 1840 to USFS Road 18 (Oklahoma Road); then south on USFS Road 18 to Willard and the Little White Salmon River; then south on the Little White Salmon River to the Columbia River; then west along the Columbia River to the mouth of Rock Creek; then northwest along Rock Creek through Stevenson to the south boundary of Gifford Pinchot National Forest; then on the south boundary of Gifford

Pinchot National Forest due west to USFS Road 4100-406; then northwest on USFS Road 4100-406 to USFS Road 41 and the point of beginning. (See Washington Atlas & Gazetteer, Gifford Pinchot National Forest map)

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

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

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

GMU 586-GLENWOOD (Klickitat County): Beginning at B-Z Corners and State Highway 141; then north on State Highway 141 to Trout Lake and the USFS 80 Road; then north to the USFS 17 Road; then northeast to USFS 82 Road; then northeast on USFS 82 Road, to the Yakima Indian Reservation Boundary (Section 16, T7N, R11E); then south along the reservation boundary to King Mountain and the southwest corner of the reservation (Section 27, T7N, R11E); then east along boundary (approximately one mile) to the end of King Mountain Road; then north to the northern boundary of the reservation at Section 2, T7N, R11E; then east to the northeastern corner of Section 4, T7N, R12E; then southeast along boundary to Summit Creek Primary Road; then south to the Glenwood/Goldendale Road; then northwest on the Glenwood/Goldendale Road to the Gravel Pit Road; then south on the Lakeside Road to the B-Z Corners/Glenwood Road; then southwest to B-Z Corners and point of beginning. (See Washington Atlas & Gazetteer and DNR Mt. Adams Quadrangle map)

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

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 95-03-028
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-139—Filed January 10, 1995, 1:10 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02206 Game management units (GMUs)—Special game areas—Boundary descriptions—Region six.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-02206 Game management units (GMUs)—Special game areas—Boundary descriptions—Region six.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-093 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 644, filed 5/10/94)]

WAC 232-28-02206 Game management units (GMUs)—Special game areas—Boundary descriptions—Region six.

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

beginning. (See Olympic National Forest, Olympic National Park maps and Washington Atlas & Gazetteer)

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

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

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

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

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

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

GMU 618-MATHENY (Jefferson and Grays Harbor counties): ~~((Those lands between the Queets and Quinault Rivers that are outside Olympic National Park and outside the Quinault Indian Reservation.))~~ Beginning at the boundary junction of Olympic National Park and the Quinault Indian Reservation near the Queets River Road; then north, east, south, and west along the Olympic National Park Boundary to the Park and Reservation boundary junction just west of Lake Quinault; then northwest along the Quinault Indian Reservation boundary to its junction with the boundary of Olympic National Park near the Queets River Road, and the point of beginning. (See the Olympic National Forest map)

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

GMU 624-COYLE (Clallam and Jefferson counties): Beginning at the mouth of the Elwha River and the Strait of Juan de Fuca; then east along the shore including islands and spits to Admiralty Inlet and Puget Sound; then south along the shore of Admiralty Inlet and Puget Sound to Hood Canal; (including Marrowstone Island and excluding Indian Island) then southwest along the shore of Hood Canal to Dabob Bay; then north along the shore of Dabob Bay and Quilcene Bay to East Quilcene Road; then west on the East Quilcene Road to the Chimacum Center Road; then south on the Chimacum Center Road to U.S. Highway 101; then north and west on U.S. Highway 101 through Sequim and Port Angeles to the Elwha River; then north along the Elwha River to its mouth and the Strait of Juan de Fuca and the point of beginning. (See Olympic National Forest, Olympic National Park map and Washington Atlas & Gazetteer)

GMU 627-KITSAP (Kitsap, Mason, Pierce and King counties): Beginning at the Hood Canal Bridge; then north along the shore of Hood Canal to Admiralty Inlet, and Puget Sound; then south along the shore of Puget Sound, including Bainbridge Island, Blake Island, Vashon Island, and Murry Island to Dalco Passage; then south along the shore of Carr Inlet; including Fox Island; through Pitt Passage and Drayton Passage to Nisqually Reach (Pierce-Thurston County line); then northwest along the Nisqually Reach and the Pierce

County line to North Bay; then along the east shore of North Bay to the town of Allyn and State Highway 3; then north on State Highway 3 to Belfair; then north on the Old Belfair Highway to the Bear Creek-Dewatto Road; then west on the Bear Creek-Dewatto Road to the Dewatto Road West; then north along the Dewatto Road to its intersection with the Albert Pfundt Road; then north on the Albert Pfundt Road to the easternmost point of Anderson Cove; then north from Anderson Cove along the east shore of Hood Canal to the Hood Canal Bridge and the point of beginning. (See Washington Atlas & Gazetteer)

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

GMU 636-SKOKOMISH (Grays Harbor and Mason counties): Beginning on the Olympic Park Boundary and the North Fork Skokomish River; then south along the North Fork Skokomish River to Lake Cushman; then southeast along the west shore of Lake Cushman to Cushman Upper Dam and the Power Dam Road; then east on the Power Dam Road to Lake Cushman Road; then southeast on Lake Cushman Road to U.S. Highway 101 at Hoodspport; then south on U.S. Highway 101 to Shelton and the Shelton-Matlock Road (County Road 9010); then west on to the Shelton-Matlock Road to Matlock and the Deckerville Road; then west on the Deckerville Road to the Middle Satsop Road; then west and south on the Middle Satsop Road to the ~~((Cougar Smith Road; then west on the Cougar Smith Road to the))~~ Kelly Road; then north on the Kelly Road to USFS Road 2153 (old 600 line); then west on USFS 2153 to Wynoochee Road (USFS 22 Road); then northwest and southwest on USFS 22 Road to ((the USFS 2204 Road (refers to USFS map, DeLorme lists as Fire Road 2302); then north on the 2204 and 2204-200 Road to Olympic National Park)) Big Creek; then up Big Creek and the east fork of Big Creek to the range line separating R8W and R7W; then north on that range line to Olympic National Park Boundary; then east on the Olympic National Park Boundary to the point of beginning. (See Washington Atlas & Gazetteer and Olympic National Forest map)

GMU 638-QUINAULT RIDGE (Grays Harbor and Jefferson counties): Beginning on the Olympic National Park Boundary at the northwest corner of Lake ~~((Quinalt))~~ Quinalt; then northeast on the Olympic National Park Boundary along the Quinalt River; then south and northeast

on the Olympic National Park Boundary to the range line separating R7W and R8W near Spur Road 2204-200 ((Spur Road)) and USFS 2204 Road (DeLorme Road 2302); then ((southwest)) south on this range line on ((to USFS 2204 Road)) the East Fork of Big Creek; then down Big Creek to USFS 22 Road (Donkey Creek Road); then west on the Donkey Creek Road to U.S. Highway 101; then north on U.S. Highway 101 to the Quinalt Indian Reservation Boundary; then northeast on the reservation boundary to Lake Quinalt; then northeast along the south shore of Lake Quinalt to the Olympic National Park Boundary and the point of beginning. (See Olympic National Forest map)

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

GMU 648-WYNOOCHEE (Grays Harbor County): Beginning at the junction of U.S. Highway 101 and the Donkey Creek Road; then northeast along the Donkey Creek Road (USFS Road 22) to its junction with the Donkey Creek-Grisdale Road; continuing east on this road (USFS Road 22) to Camp Grisdale (south of Wynoochee Lake); then south along the Grisdale-Montesano Road (USFS Road 22) to ~~((the Cougar Smith Road; then east on the))~~ USFS Road 2153 (old 600 line); then east on USFS 2153 to Kelly Road; then south on Kelly Road to Middle Satsop Road; then south on Middle Satsop Road to Cougar Smith Road; then west on Cougar Smith Road to the West Fork of the Satsop River; then south down the West Fork and the main stream of the Satsop River to U.S. Highway 12; then west along U.S. Highway 12 to its junction with U.S. Highway 101 in Aberdeen; then west and north along U.S. Highway 101 to its junction with the Donkey Creek Road (USFS Road 22) and the point of beginning. (See Washington Atlas & Gazetteer)

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

GMU 658-NORTH RIVER (Grays Harbor and Pacific counties): Beginning at the Pacific Ocean and the south shore of Grays Harbor; then east along the south shore of Grays Harbor to Aberdeen and the mouth of the Chehalis River including Rennie Island; then east along the Chehalis

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

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

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

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

GMU 667-SKOOKUMCHUCK (Thurston and Lewis counties): Beginning on the Old Pacific Highway (Mounts Road) Bridge on the Nisqually River; then southeast along

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

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

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

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

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

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

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

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

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

**WSR 95-03-029
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-140—Filed January 10, 1995, 1:12 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02210 Game management units (GMUs)—Special game areas—Boundary descriptions—Deer area descriptions.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02210 Game management units (GMUs)—Special game areas—Boundary descriptions—Deer area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-094 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 645, filed 5/10/94)]

WAC 232-28-02210 Game management units (GMUs)—Special game areas—Boundary descriptions—Deer area descriptions.

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

Deer Area No. 002 Champion South (Pierce County): Beginning at the point where Champion's 1 Road crosses the Puyallup River (approximately 1 1/2 miles northeast of Kapowsin) then southeast up the Puyallup River to the confluence with Deer Creek; then south up Deer Creek to where it intersects the 243 Road; then northwest along the 243 Road to where it intersects the 24 Road; then southwest along the 24 Road to where it intersects the 3270 Road; then west along the 3270 Road to where it intersects the 327 Road; then southwest along the 327 Road to where it crosses Busy Wild Creek (near Lake Lorraine); then west down the Busy Wild Creek to its confluence with the North Fork Mashel River; then up the North Fork Mashel River (about 1 mile) to the point nearest the southernmost extension of the 311 Road (T16N, R6E, Section 19, S.W. 1/2 of S.W. 1/2); then in a line to the 311 Road; then along 311 Road to where it intersects the 3113 Road; then north along the 3113 Road to where it intersects the 843 Road; then along the 843 Road to where it intersects the 84 Road; then along the 84 Road to where it intersects the 8 Road; then north along the 8 Road to where it intersects the 82 Road; then along the 82 Road to where it intersects the township line between Townships 16 & 17 North, W.M.; then west on said line to where it intersects the range line between Ranges 4 & 5 East, W.M.; then north on said line to northwest corner of Section 31, T17N, R5E; then east on section line between

Sections 30 and 31, T17N, R5E to 1/4 corner (Champion ownership); then north from said corner along ownership line to the point closest to the southernmost extension of the 0-100 Road (approx. 3/4 mile); then in a northwest line to the 0-100 Road; then along the 0-100 Road to where it intersects with Ohop Creek; then northwest along Ohop Creek to where it empties into Lake Kapowsin; then northeast along the east shore of Lake Kapowsin to the point closest to the start of the 1 Road; then along the 1 Road to point of beginning. (See Washington Atlas & Gazetteer)

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

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

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

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

Deer Area No. 041 Pilchuck (Snohomish and King counties): Beginning at the mouth of the Stillaguamish River; then up the Stillaguamish River to Arlington; then northeast along Highway 530 to a point in Section 10, T32N, R7E where it intersects with the City of Seattle power

transmission line; then southwest along the transmission line to the point where it crosses the divide between Jim Creek and the North Fork of Canyon Creek (Section 11, T31N, R7E); then down the North Fork of Canyon Creek and Canyon Creek to the South Fork Stillaguamish River; then down the Stillaguamish River to Jordan Road; then along Jordan Road to Granite Falls, then south along Menzel Lake Road to the Pilchuck River Road (P-5000); then east on P-5000 Road to Culmback Dam (Spada Lake); then southeast on Culmback Dam Road to Sultan Basin Road at Olney Pass; then south on Sultan Basin Road to Kellogg Lake Road to U.S. Highway 2 east of Sultan; then west on U.S. Highway 2 to Monroe; then south on Highway 203 to Duvall; then north down the Snoqualmie River to the Snohomish River and down the Snohomish River to Puget Sound; then north along the shore of Puget Sound to the mouth of the Stillaguamish River and the point of beginning. (See Washington Atlas & Gazetteer or Mount Baker/Snoqualmie National Forest map)

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

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

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

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 95-03-030
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-141—Filed January 10, 1995, 1:15 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02280 Game management units (GMUs)—Special game areas—Boundary descriptions. Cougar areas.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02280 Game management units (GMUs)—Special game areas—Boundary descriptions. Cougar areas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-095 on November 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-02280 differs from the proposed version filed with the code reviser in the following specifics:

1. Amend Cougar Unit 15 (Rainier) by including PLWMA 401 in both GMUs 478 and 484. Cougar Unit 15 then reads "15 Rainier—GMUs 478 (including PLWMA 401), 484 (including PLWMA 401), 505, 510, 512, 514, 516, and 667.

Effective Date of Rule: Thirty-one days after filing.
December 21, 1994
John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 652, filed 5/10/94)]

WAC 232-28-02280 Game management units (GMUs)—Special game areas—Boundary descriptions. Cougar areas.

COUGAR PERMIT AREA DESCRIPTIONS

Unit	Description
1	Pend Oreille—GMU 113
2	Colville—GMUs 108, 111, 118, and 119
3	Republic—GMUs 100, 103, 105, 200, and 206
4	Spokane—GMUs 121 and 124
5	Blue Mountains—GMUs ((145-168)) <u>145-154, 160-166 and ((170-185)) 172-185</u>
6	Wenaha—GMU 169
7	Okanogan—GMUs 203, 209-242, and 300
8	((Wenatchee—GMUs 301-368)) <u>Chelan—GMUs 301-335</u>
9	<u>Yakima—GMUs 336-372</u>
((9)) <u>10</u>	Nooksack—GMUs 417, 418
((10)) <u>11</u>	Skagit—GMUs 426, 433, 440-448, and 450
((11)) <u>12</u>	Snoqualmie—GMUs 454, 460, 466, 472, and 490
((12)) <u>13</u>	North Olympic Peninsula—GMUs 601-615, that portion of GMU 621 north of the Dosewallips River, and GMU 624

- ~~((13))~~ 14 South Olympic Peninsula—GMUs 618, 636, 638, 642, 648, and that portion of GMU 621 south of the Dosewallips River
- ~~((14))~~ 15 Rainier—GMUs 478 (including PLWMA 401, 484 (including PLWMA 401), 505, 510, 512, 514, 516 and 667
- ~~((15))~~ 16 South Puget Sound—GMUs 627, 633, 651, 663, and 666
- ~~((16))~~ 17 Cowlitz—GMUs 520, 550, 556, and 558
- ~~((17))~~ 18 Skamania—GMUs 560, 568, 572, 574, ~~((and))~~ and 576
- ~~((18))~~ 19 Pacific—GMUs 658, 660, 669, 672, 678, 681, and 684 (~~Unit Description~~)

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 95-03-031
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-142—Filed January 10, 1995, 1:17 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-096 on November 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-240 differs from the proposed version filed with the code reviser in the following specifics:

1. On page 2, GMU 405 should have an asterisk and a footnote at the bottom of the page reading: *Modern firearm deer hunting on Guemes Island is by permit only.

2. On page 5, the paragraph following the asterisk in the middle of the page was changed to read: *Submarine Base Bangor within GMU 627 is open for archers with disabilities by permit from the Navy. For information on this hunting opportunity call Tom James at (206) 396-5097. Special restrictions: U.S. citizenship is required by the Navy.

3. On page 7, the 1995 and 1996 2 pt. min. or antlerless archery deer seasons on Kapowsin Tree Farm should be changed to Sept. 30-Oct. 11, 1995 and Sept. 28-Oct. 9, 1996.

4. On page 8, the second sentence under "Placement of Bait" was amended as follows: "A bait may not be placed within fifty yards of any body of water (lake, pond, reservoir, stream, river, and spring), and not within two hundred yards of any road open to vehicular traffic or publicly maintained trail."

PERMANENT

Effective Date of Rule: Thirty-one days after filing.
 December 21, 1994
 John C. McGlenn
 Chairman

these GMUs must meet minimum antler point requirements. Minimum antler point requirements are antler points on one side only. Antler points include eye guards but all antler points must be at least one inch long. The following GMUs have 2 or 3 point minimum requirements on buck deer taken.

AMENDATORY SECTION [(Amending Orders 94-76 and 94-131, filed 10/17/94)]

WAC 232-28-240 1994-95, 1995-96, 1996-97 Deer and bear hunting seasons and regulations

DEER

Bag Limit: One (1) deer per hunter during an annual (July 1-March 31) hunting season. The Fish and Wildlife Commission may authorize two doe permits for damage areas. Any multiple doe permits will be identified by special permit.

Hunting Method: Hunters must select one of the hunting methods (modern firearm, archery, muzzleloader).

Buck Deer Seasons: Open only to the taking of male deer with visible antlers (buck fawns illegal).

Definition: Visible antler is a horn-like growth projecting above the hairline.

Branched Antler Restriction GMUs: APPLIES TO ALL HUNTERS DURING ANY OPEN SEASON! Buck deer taken in

2 Point GMUs: 433, 478, 558, 574, 576, 584, 586, 588, 636, 681, and GMU 485 (by permit only).

3 Point GMUs: 127, 130, 133, 136, 139, 142, 145, 148, 151, 154, 160, 161, 163, 166, 169, 172, 175, 178, 181, 184, 185, 203, 231, 306, and 450.

Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

Hunting Method: Modern firearm deer tag hunters may use rifle, handgun, shotgun, bow or muzzleloader, but only during modern firearm seasons.

High Buck Hunt

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

General Modern Firearm Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
Northeastern				
100-124 (See late buck for extended whitetail season).	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only
Southeastern				
127-185 Except closed in 157	Oct. 15-23	Oct. 14-22	Oct. 12-20	3 pt. min.
Okanogan & Chelan				
200-242	Oct. 15-31	Oct. 14-((3+)) <u>27</u>	Oct. 12-31	Buck only except 3 pt. min. in GMUs 203 and 231.
300-316	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except 3 pt. min. in GMU 306
Columbia Basin				
248-278, 284	Oct. 15-21	Oct. 14-20	Oct. 12-18	Buck only.
281	Oct. 15-23	Oct. 14-22	Oct. 12-20	Either sex

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Colockum and Central

328-334	Oct. 15-25	Oct. 14-25	Oct. 12-25	Buck only
335-((370)) <u>372</u>	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only

Western

405*-572, 580, 601-684. Closed in GMU 522. Permit only in GMU 485.	Oct. 15-31	Oct. 14-31	Oct. 12-31	Buck only except either sex in GMUs 410, 480, and 564; and 2 pt. min. in GMUs 433, 478, 558, 636, and 681; and 3 pt. min. in GMU 450.
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574, 576, 584, 586, 588	Oct. 15-Nov. 6	Oct. 14-Nov. 14	Oct. 12-Nov. 6	2 pt. min.
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*Modern firearm deer hunting on Guemes Island is by permit only.

Late Buck Season

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm deer tag on his/her person.

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
105-124	Nov. 1-20	Nov. 1-19	Nov. 1-24	Whitetail buck only
All 400, 500, & 600 Except closed in: GMUs 480, 485, 522, 574, 576, 580, 584, 586, 588	Nov. 17-20	Nov. 16-19	Nov. 21-24	Buck only except 2 pt. min. in GMUs 433, 478, 558, 636, and 681 and 3 pt. min. in GMU 450 and either sex in GMU 410 and 564

Archery Deer Seasons

Tag Required: Deer hunter must have a current valid, unaltered, unnotched archery deer tag on his/her person.

Special Notes: Archery tag holders can only hunt with archery equipment during archery seasons.

Early Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
100-118, 121, 124, 215, 233, 300, 316	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
127, 130 133	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
136-154, 160-169, 175-185, 231, 306	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
200, 206, 218, 224, 239, 248-284, 308, 335-340, 352, 356, 364, ((370,)) <u>371</u> , <u>372</u> , 405-426, 440, 442, 454-472, 490, 504, 505, 510, 512, 514, 516, 520, 524, 530, 550, 554, 556, 560, 568, 572, 580,	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex

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601, 602, 607, 615, 618, 621, 627*, 633, 638, 642-658, 663, 667, 669, 678	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
433, 478, 558, 574, 576, 584, 586, 588, 681	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
328-334, 480	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	3 pt. min. or antlerless
203, 301, 302, 450	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. 3 pt. min. or antlerless
172	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
119, 242, 304, 360, 448, 484, 564, 603, 612, 624, 666, 672, 684	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
636	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
660	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	2 pt. min. 2 pt. min. or antlerless
501, 506	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex
Deer Areas 010, 040, 060	Sept. 15-30	Sept. 15-30	Sept. 15-30	3 pt. min. or antlerless
Bow Area 802	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 15-30	Buck only Either sex

Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
103	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Nov. 14-Dec. 15	Whitetail only, either sex
118, 121, 124	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Whitetail only; either sex
127, 166, 178	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min. or antlerless
209, 215, 233, 242, 272, 300, 304, 316, 346, 352, 364	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Either sex
558, 584, 588, 636, 681	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min or antlerless
417, 418, 426, 440, 448, 460, 466, 480, 510, 512, 514, 516, 520, 524, 530, 556, 560, 572, 601, 607, 612, 615, 618, 638, 648, 669, 678	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
450	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. min

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Bow Areas	1994 Dates	1995 Dates	1996 Dates	Legal Deer
802	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
806, 807	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. ((24))27-Dec. 8	Either sex
820	Dec. 24-Jan. 8, 1995	Dec. 24-Jan. 8, 1996	Dec. 24-Jan. 8, 1997	Either sex

Extended Late Archery

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
405, 410, 442, 454, 484, 505, 506, 564, 568, 603, 624, 627*, 642, 660, 663, 666, 667, 672, and Deer Areas 041 and 042	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex
433	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	2 pt. min. or antlerless

* Submarine Base Bangor within GMU 627 is ((antlerless only)) open for archers with disabilities by permit from the Navy. For information on this hunting opportunity call Tom James at (206) 396-5097. Special restrictions: U.S. citizenship is required by the Navy.

Muzzleloader Deer Seasons

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched muzzleloader deer tag on his/her person.

Hunting Method: Muzzleloader only.

Special Notes: Muzzleloader tag holders can only hunt during muzzleloader seasons and must hunt with muzzleloader equipment. Muzzleloader deer tag holders may apply for all either sex, antlerless only, and branched antler deer special hunting permits except on Private Lands Wildlife Management Area 201.

High Buck Hunt

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
203, 301, 302, 450	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.
Deer Areas 010, 040, 060	Sept. 15-25	Sept. 15-25	Sept. 15-25	3 pt. min.

Early Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
119, 242, 564, 666	Oct. 1-12	Oct. 1-11	Oct. 1-9	Either sex
506	Oct. 6-12	Oct. 5-11	Oct. 3-9	Buck only
209	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Either sex
302, 368	Sept. 29-Oct. 12	Sept. 28-Oct. 11	Sept. 26-Oct. 9	Buck only
304, 360, 484, 603, 612, 624, 672	Oct. 1-12	Oct 1-11	Oct. 1-9	Buck only

Late Muzzleloader

GMUs	1994 Dates	1995 Dates	1996 Dates	Legal Deer
113	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Whitetail only, either sex
130, 133, 136, 139, 181	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	3 pt. min. or antlerless
304	Nov. 12-20	Nov. 11-19	Nov. 10-18	Buck only
410	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex

478	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min. or antlerless
501, 504, 550	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
580	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Buck only
576, 586	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	2 pt. min.
602, 633, 651, 684	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
666	Nov. 23-Dec. 31	Nov. 22-Dec. 31	Nov. 27-Dec. 31	Either sex
Muzzleloader Area				
925	Dec. 1-31	Dec. 1-31	Dec. 1-31	Antlerless only
926	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Nov. 24-Dec. 15	Either sex

Firearm Restricted Deer Hunts Open To All Deer Hunters

Tag Required: Deer hunter must have a current, valid, unaltered, unnotched modern firearm, archery or muzzleloader deer tag on his/her person.

Hunting Method: Must use weapon in compliance with tag. Firearm restrictions apply in some GMUs.

GMUs	Weapon Permitted	1994 Dates	1995 Dates	1996 Dates	Legal Deer
410 & 480	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex
564	Archery, Shotgun, Muzzleloader	Nov. 17-Dec. 31	Nov. 16-Dec. 31	Nov. 21-Dec. 31	Either sex
627*	Archery, Shotgun, Muzzleloader	Oct. 15-31	Oct. 14-31	Oct. 12-31	Either sex

*Only that portion of GMU 627 (Kitsap) on Vashon(~~Maury and Heron Islands~~) and Maury Islands.

Private Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	1994 Open Season	1995 Open Season	1996 Open Season	Special Restrictions
Archery	Sept. 1-14 Sept. 15-30	Sept. 1-14 Sept. 30-Oct. 11	Sept. 1-14 Sept. 28-Oct. 9	2 pt. min. 2 pt. min. or antlerless
Modern Firearm General Late Buck	Oct. 15-31 Nov. 17-20	Oct. 14-31 Nov. 16-19	Oct. 12-31 Nov. 21-24	2 pt. min. 2 pt. min.
Muzzleloader	Nov. 23-Dec. 8	Nov. 22-Dec. 8	Nov. 27-Dec. 8	Antlerless or 2 pt. min.

BLACK BEAR

Bag Limit: Fall General - One (1) black bear.

Tag Sale Deadline: Bear tags must be purchased by mid-night of the day preceding modern firearm deer season opener. Actual dates are: Oct. 14, 1994; Oct. 13, 1995; Oct. 11, 1996.

PURSUIT ONLY SEASON

It is lawful to pursue or tree black bears during established pursuit-only seasons, provided any bear pursued or treed is NOT killed or injured. Hunters participating in a pursuit only season for black bear must have a valid hound stamp, and hunting license. A bear tag is not required to pursue black bear during the pursuit only season.

Aug. 1-31, 1994, 1995, and 1996, in GMUs 100-111, GMU 113 outside of Selkirk Grizzly Bear Recovery Zone*, GMUs 118-124 and GMUs 200 and 206.

The following regulations apply to the practice of HUNTING BLACK BEAR WITH BAIT.

Definition of Bait: A bait shall be defined as any substance placed with the intent of attracting bear.

Bait Types: ~~((The following materials are legal baits for hunting and pursuing black bear: Unprocessed))~~ It is unlawful to hunt bear with the aid of any bait other than unprocessed plant and plant parts including fruit, inedible parts of legally obtained food fish, game fish, and game animals(♁); carcasses of legally trapped furbearing animals

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(hide removed)(:); carcasses of (~~food fish~~) unclassified fish and unclassified wildlife, and parts of domestic livestock carcasses.

Baits may not contain paper, cardboard, plastic, glass, aluminum, tin, steel, or styrofoam, or other packaging materials.

All other baits are illegal.

Placement of Bait: Baits for black bear may not be placed in an area until five days prior to the start of that area's established bear harvest season.

A bait may not be placed within fifty yards of any body of water (lake, pond, reservoir, stream, river, and spring), and not within two hundred yards of any road open to vehicular traffic or publicly maintained trail. (~~and/or open road~~)

A bait may not be placed within one-half mile of any publicly designated administrative site, campground, picnic area, landfill or dump site, and not within one-quarter mile of any permanent residence or seasonal dwelling (except that private landowners may bait on their property within one-quarter mile of their own residence or seasonal dwelling when such baiting does not violate any of the aforementioned distance requirements with adjacent landholders).

Bait Containers: Bait must be contained within an excavated pit, or within a confine constructed of materials located at the site. Such containment structures might include, but not be restricted to, log cubbies, rock piles and stumps. Containers may also be used to hold bait, but if used, must be securely fastened (to tree, ground, post, etc.).

Any items used to contain or to fasten bait containment materials such as metal drums, nails, screws, bolts, rope, reinforcing rod, and spikes shall be removed from the area within 48 hours of the close of the bear harvest season. Excavated pits shall be filled(:) and the area (~~shall be~~) returned to pre-baiting condition. (~~Materials~~) Tree stands and materials used to construct and erect tree stands (~~overlooking the bait~~) shall be removed within the same 48-hour period (except that tree stands may be left on private property with landowner's permission).

All hunters who hunt bear with bait shall affix their bear tag number at their bear baiting sites in such a manner that it remains conspicuous and legible for the duration of the bear season.

OPEN SEASON

(Bear may be killed.)

Eastern Washington*

Sept. 7-Oct. 31, 1994, Sept. 6-Oct. 31, 1995, Sept. 4-Oct. 31, 1996 (~~throughout eastern Washington except CLOSED to hunting with hounds outside federal lands in GMUs 203, 218, 224, 231, 239, and 242~~)).

Sept. 7-Nov. 6, 1994; Sept. 6-Nov. 5, 1995; Sept. 4-Nov. 10, 1996 in GMUs 145-185, except in Walla Walla and Columbia counties, bear season outside of Umatilla National Forest is open to boot hunters only (no hounds or bait may be used to hunt bear).

* Use of hounds and bait to hunt black bear prohibited in that part of GMU 113 within the Selkirk Grizzly Bear Recovery Zone**.

**Selkirk Grizzly Bear Recovery Zone: (Pend Oreille County): Beginning at the junction of the Canadian-Washington border and State Route 31 by Boundary Lake; then east along the Canadian border to the Idaho border; then south along the Idaho-Washington border to the ridge top between Bath Creek and Lamb Creek at Section 1, Township 35 North, Range 45 East; then west along said ridge top to USFS Road 310; then west along USFS Road 310 to the peak of Gleason Mountain; then west along USFS Trail 162 to Hungry Mountain; then south and west along the ridge top between Fourth of July Creek and Middle Creek to the mouth of LeClerc Creek; then north along the ridge top between the Pend Oreille River and the West Branch LeClerc Creek (Dry Canyon Ridge) to Sullivan Lake Road; then north and east along Sullivan Lake Road to Sullivan Lake; then north along the east shoreline of Sullivan Lake to Sullivan Lake Road; then north and west along Sullivan Lake Road (~~to the city limits of Metaline Falls; then north along the city limits of Metaline Falls~~) to State Route 31; then north along State Route 31 to the point of beginning. (See Washington Atlas & Gazetteer or Colville National Forest map.)

(Draft) North Cascades Grizzly Bear Recovery Zone (D)NCGBRZ - Special Regulations

(Note: A boundary description of the North Cascades Grizzly Bear Recovery Zone will appear in the hunting season pamphlet.

Hunting black bear with the use or aid of bait is prohibited in the (D) NCGBRZ within the recommended Situation 1 areas, which include all wilderness areas of the National Forests and of the North Cascades National Park Complex.

During the 1994 season, hunters may bait for black bear outside of wilderness areas of the (D)NCGBRZ. Educational information and baiting permits will be available on a voluntary basis during the 1994 season, and hunters are encouraged to participate. Beginning in 1995, hunters wishing to use bait within the NCGBRZ but outside of designated Situation 1 areas will be required to be an Advanced Hunter Education graduate (AHE), or to obtain a bait hunter education certificate from the Washington Department of Fish and Wildlife.)

Hunting black bear with the use or aid of bait is prohibited in wilderness areas of the North Cascades National Park Complex, and in the following National Forest wilderness areas: Mount Baker, Pasayten, Noisy Diobsud, Glacier Peak, Lake Chelan-Sawtooth, Boulder River, Henry M. Jackson, and Alpine Lakes.

Hunters using bait north of Interstate 90, and west of U.S. Highway 97 within the external boundaries of the Mount Baker-Snoqualmie, Okanogan, and Wenatchee National Forests, and on all lands outside these National Forests within GMUs 215-242, 417, 418, 433, 440, and 448 are required to be an Advanced Hunter Education graduate (AHE), or to obtain a bait hunter education certificate from the Washington Department of Fish and Wildlife.

Western Washington

Aug. 1-Oct. 31, 1994; Aug. 1-Oct. 31, 1995; Aug. 1-Oct. 31, 1996, EXCEPT Sept. 1-Oct. 31, 1994, Sept. 1-Oct. 31, 1995, and Sept. 1-Oct. 31, 1996, in Bow Area 802. CLOSED in GMUs 485 and 522.

HOUND HUNTING CLOSURES

Use of hounds is prohibited in GMU 684, and Bow Area 802.

TOOTH SUBMITTAL

Bear: Each hunter who takes a bear must submit the small premolar tooth behind the canine tooth of upper or lower jaw for age determination. Tooth envelopes are available from Department of Fish and Wildlife regional offices.

REPORT CARDS

Each successful hunter must fill out and return a Game Harvest Report Card to the Department of Fish and Wildlife within ten days after taking a deer or bear.

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

**WSR 95-03-032
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-143—Filed January 10, 1995, 1:22 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-241 1994-95, 1995-96, 1996-97 Official hunting hours and small game seasons.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-241 1994-95, 1995-96, 1996-97 Official hunting hours and small game seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-097 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 655, filed 5/10/94)]

WAC 232-28-241 1994-95, 1995-96, and 1996-97 Official hunting hours and small game seasons

1994-95 OFFICIAL HUNTING HOURS FOR MIGRATORY GAME BIRDS*
September 1, 1994 to January 31, 1995

Dates (Inclusive)	West Slope Zone (Seattle times)		Coastal Zone (Tatoosh Is. times)	
	A.M. to	P.M.	A.M. to	P.M.
Daylight Savings Time				
Thurs. Sept. 1 - Sun. Sept. 4	6:00	7:45	6:10	8:00
Mon. Sept. 5 - Sun. Sept. 11	6:05	7:35	6:15	7:45
Mon. Sept. 12 - Sun. Sept. 18	6:15	7:20	6:25	7:30
Mon. Sept. 19 - Sun. Sept. 25	6:25	7:10	6:35	7:20
Mon. Sept. 26 - Sun. Oct. 2	6:35	6:55	6:45	7:05
Mon. Oct. 3 - Sun. Oct. 9	6:45	6:40	6:55	6:50
Mon. Oct. 10 - Fri. Oct. 14	6:55	6:25	7:05	6:35
Opening Weekend**	7:00	6:20	7:10	6:30
Mon. Oct. 17 - Sun. Oct. 16	7:00	6:20	7:10	6:30
Mon. Oct. 17 - Sun. Oct. 23	7:05	6:10	7:15	6:20
Mon. Oct. 24 - Sat. Oct. 29	7:15	6:00	7:25	6:10
Pacific Standard Time				
Sun. Oct. 30	6:20	4:55	6:30	5:00
Mon. Oct. 31 - Sun. Nov. 6	6:25	4:50	6:40	4:55
Mon. Nov. 7 - Sun. Nov. 13	6:35	4:40	6:50	4:45
Mon. Nov. 14 - Sun. Nov. 20	6:45	4:30	7:00	4:40
Mon. Nov. 21 - Sun. Nov. 27	6:55	4:25	7:10	4:30
Mon. Nov. 28 - Sun. Dec. 4	7:05	4:20	7:20	4:25
Mon. Dec. 5 - Sun. Dec. 11	7:15	4:20	7:25	4:25
Mon. Dec. 12 - Sun. Dec. 18	7:20	4:20	7:35	4:25
Mon. Dec. 19 - Sun. Dec. 25	7:25	4:20	7:40	4:25
Mon. Dec. 26 - Sun. Jan. 1	7:25	4:25	7:40	4:30
Mon. Jan. 2 - Sun. Jan. 8	7:25	4:30	7:40	4:40
Mon. Jan. 9 - Sun. Jan. 15	7:25	4:40	7:35	4:45
Mon. Jan. 16 - Sun. Jan. 22	7:20	4:50	7:30	4:55
Mon. Jan. 23 - Sun. Jan. 29	7:15	5:00	7:25	5:10
Mon. Jan. 30 - Tues. Jan. 31	7:10	5:05	7:20	5:15

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Dates (Inclusive)	East Slope Zone (Yakima times)		Far East Zone (Spokane times)	
	A.M. to	P.M.	A.M. to	P.M.
Daylight Savings Time				
Thurs. Sept. 1 - Sun. Sept. 4	5:55	7:40	5:40	7:30
Mon. Sept. 5 - Sun. Sept. 11	6:00	7:30	5:50	7:15
Mon. Sept. 12 - Sun. Sept. 18	6:10	7:15	5:55	7:05
Mon. Sept. 19 - Sun. Sept. 25	6:20	7:00	6:05	6:50
Mon. Sept. 26 - Sun. Oct. 2	6:30	6:45	6:15	6:35
Mon. Oct. 3 - Sun. Oct. 9	6:35	6:30	6:25	6:20
Mon. Oct. 10 - Fri. Oct. 14	6:45	6:20	6:35	6:05
Opening Weekend**	Sat. Oct. 15	6:15	6:40	6:00
Mon. Oct. 17 - Sun. Oct. 23	Sun. Oct. 16	6:15	6:40	6:00
Mon. Oct. 24 - Sat. Oct. 29	6:55	6:05	6:45	5:55
	7:05	5:55	7:55	5:40
Pacific Standard Time				
Sun. Oct. 30	6:10	4:50	6:00	4:35
Mon. Oct. 31 - Sun. Nov. 6	6:15	4:45	6:05	4:30
Mon. Nov. 7 - Sun. Nov. 13	6:25	4:35	6:15	4:20
Mon. Nov. 14 - Sun. Nov. 20	6:35	4:25	6:30	4:10
Mon. Nov. 21 - Sun. Nov. 27	6:45	4:20	6:40	4:05
Mon. Nov. 28 - Sun. Dec. 4	6:55	4:15	6:45	4:00
Mon. Dec. 5 - Sun. Dec. 11	7:00	4:15	6:55	4:00
Mon. Dec. 12 - Sun. Dec. 18	7:10	4:15	7:00	4:00
Mon. Dec. 19 - Sun. Dec. 25	7:15	4:20	7:05	4:00
Mon. Dec. 26 - Sun. Jan. 1	7:15	4:20	7:10	4:05
Mon. Jan. 2 - Sun. Jan. 8	7:15	4:30	7:10	4:15
Mon. Jan. 9 - Sun. Jan. 15	7:15	4:40	7:05	4:20
Mon. Jan. 16 - Sun. Jan. 22	7:10	4:45	7:00	4:30
Mon. Jan. 23 - Sun. Jan. 29	7:00	4:55	6:55	4:40
Mon. Jan. 30 - Tues. Jan. 31	7:00	5:05	6:50	4:50

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West Slope Zone: East from I-5 to the ((Caseade)) Pacific Crest Trail.

Coastal Zone: From the west coast of Washington, east to I-5.

East Slope Zone: East from the ((Caseade)) Pacific Crest Trail to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: From the East Slope Zone boundary (Highway 21 from Canadian border to its junction with Highway 395, south on Highway 395 to Oregon border) to the Idaho border.

* Migratory game birds include ducks, geese, coots, snipe, and mourning doves. The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset. For these species, hunters can use the Hunting Hour table for AM time and just add 30 minutes for PM time.

** Opening Day - In Eastern Washington, upland bird, duck, goose, coot, and snipe ((and waterfowl)) seasons open at noon. In Western Washington, upland bird, duck, goose, coot, and snipe ((and waterfowl)) seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.

- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.

- 3) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon season except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.

- 4) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

Bobcat

Bag and Possession Limits: No limit.

Bobcat may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill bobcat with use of hounds during early archery seasons.

Bobcat may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill bobcat with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)
 Sept. 1-30, Nov. 23-Dec. 14, 1994 and Jan. 16-31, 1995;
 Sept. 1-30, Nov. 22-Dec. 14, 1995 and Jan. 16-31, 1996;
 Sept. 1-30, Nov. 27-Dec. 14, 1996 and Jan. 16-31, 1997;
 except closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; and Sept. 1-Oct. 11, 1996.

OPEN SEASON

(Bobcat may be killed)
 Oct. 15-31, 1994 and Dec. 15, 1994-Jan. 15, 1995; Oct. 14-31, 1995 and Dec. 15, 1995-Jan. 15, 1996; Oct. 12-31, 1996 and Dec. 15, 1996-Jan. 15, 1997.

Western Washington

PURSUIT-ONLY SEASON

(Bobcat may not be killed or injured.)
 Aug. 1-Oct. 14, 1994; Aug. 1-Oct. 13, 1995; Aug. 1-Oct. 11, 1996; except CLOSED in GMU 522.

OPEN SEASON

(Bobcat may be killed.)
 Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996; Oct. 12, 1996-Mar. 15, 1997; except CLOSED in GMU 522.

Hound Hunting During Deer and Elk Hunting Seasons

It is unlawful to hunt any wildlife at night or wild animals with dogs (hounds) during the months of September, October, or November in any area open to a center-fire rifle deer or elk season EXCEPT for the following areas and dates. (This does not permit the hunting of deer or elk with the use of hounds.)

Eastern Washington

	<u>1994</u>	<u>1995</u>	<u>1996</u>
GMUs 100-124.	Oct. 5-12	Oct. 4-11	Oct. 2-9
GMUs 127-185.	Nov. 10-17	Nov. 9-16	Nov. 14-21
Yakima County within two (2) miles of the Yakima River below Union Gap.	Oct. 5-Nov. 1	Oct. 14-31	Oct. 12-29
Whitman and Lincoln counties.	Oct. 29- Nov. 13	Oct. 28- Nov. 12	Oct. 26- Nov. 10

Western Washington

Oct. 15-Nov. 20, 1994; Oct. 14-Nov. 19, 1995; Oct. 12-Nov. 24, 1996; in GMU 405 (west of Highway 9), GMUs 454, 627, 633, and the Columbia River Floodplain of Clark and Cowlitz counties with boundaries described as follows: beginning at the Longview/Columbia River Bridge, then north and west on Oregon Way (Highway 432) to Tennant Way (Highway 432) to Interstate Highway 5, then south on I-5 to State Highway 14 to the Skamania County line, then south on county line to the Columbia River on state line to the Longview Bridge and point of beginning.

RACCOON

Bag and Possession Limits: No Limit.

Raccoon may be killed during archery deer or elk seasons with archery equipment if valid license and tags are in possession for deer or elk seasons, respectively. Archers may not kill raccoon with use of hounds during early archery seasons.

Raccoon may be killed during muzzleloader deer or elk seasons with muzzleloader equipment if valid license and tags are in possession for deer or elk seasons, respectively. Muzzleloaders may not kill raccoon with use of hounds during early muzzleloader seasons.

Eastern Washington

PURSUIT-ONLY SEASON

(Raccoon may not be killed or injured.)
 Sept. 1-Oct. 14, 1994; Sept. 1-Oct. 13, 1995; Sept. 1-Oct. 11, 1996; except CLOSED to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest.

OPEN SEASON

(Raccoon may be killed)
 Oct. 15, 1994-Jan. 15, 1995; Oct. 14, 1995-Jan. 15, 1996; Oct. 12, 1996-Jan. 15, 1997.

Western Washington

PURSUIT-ONLY SEASON

(Raccoon may not be killed or injured.)
 Aug. 1-Oct. 14, 1994; Aug. 1-Oct. 13, 1995; Aug. 1-Oct. 11, 1996; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

OPEN SEASON

(Raccoon may be killed.)
 Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996; Oct. 12, 1996-Mar. 15, 1997; except CLOSED on Long Island within Willapa National Wildlife Refuge and GMU 522.

FOX

Bag and Possession Limits: No limits.

Statewide: Oct. 15, 1994-Mar. 15, 1995; Oct. 14, 1995-Mar. 15, 1996; Oct. 12, 1996-Mar. 15, 1997, except CLOSED within the exterior boundaries of the Mount Baker/Snoqualmie, Okanogan, Wenatchee, and Gifford Pinchot National Forests and GMUs 405, 410, and 522.

COYOTE

Coyote may be taken year around EXCEPT that coyote may only be killed and/or pursued with hounds during the following periods:

Eastern Washington

Sept. 1-Jan. 31, 1994-95; Sept. 1-Jan. 31, 1995-96; Sept. 1-Jan. 31, 1996-97; except year around in Grant, Adams, Benton, and Franklin counties.

Western Washington

Aug. 1-Mar. 15, 1994-95; Aug. 1-Mar. 15, 1995-96; Aug. 1-Mar. 15, 1996-97.

Coyote may not be taken by any means from September 15 to November 30 in the following closed areas: Pasayten

PERMANENT

Wilderness, GMUs 426 and 450, and those portions of GMUs 218, 304, and 448 within external boundaries of the Mount Baker-Snoqualmie, Okanogan and Wenatchee national forests.

FOREST GROUSE (BLUE, RUFFED, AND SPRUCE)

Bag and Possession Limits: Three (3) grouse per day, with a total of nine (9) grouse in possession at any time; straight or mixed bag.

Statewide: Sept. 1-Dec. 31 during 1994, 1995, and 1996; except CLOSED in GMU 522.

PTARMIGAN

Season closed statewide.

UPLAND BIRDS

Eastern Washington

Ring-necked Pheasant

Bag and Possession Limits: Three (3) cock pheasants per day, with a total of fifteen (15) cock pheasants in possession at any time.

Noon Oct. 15-Dec. 31, 1994; Noon Oct. 14-Dec. 31, 1995; Noon Oct. 12-Dec. 31, 1996.

Chukar Partridge

Bag and Possession Limits: Six (6) chukar per day, with a total of eighteen (18) chukar in possession at any time.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 24-Oct. 14, 1994; Sept. 22-Oct. 13, 1995; Sept. 21-Oct. 11, 1996.

Regular Season: Noon Oct. 15, 1994 - Jan. 15, 1995; Noon Oct. 14, 1995 - Jan. 7, 1996; Noon Oct. 12, 1996 - Jan. 12, 1997.

Gray (Hungarian) Partridge

Bag and Possession Limits: Six (6) gray partridges per day, with a total of eighteen (18) gray partridges in possession at any time.

Early season in Asotin and Garfield counties; in that part of Whitman County south of the Washtucna - Colfax - Moscow Highway; in that part of Columbia County that is north and east of the Tucannon River: Sept. 24-Oct. 14, 1994; Sept. 22-Oct. 13, 1995; Sept. 21-Oct. 11, 1996.

Regular Season: Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) quail per day, with a total of thirty (30) quail in possession at any time, straight or mixed bag.

Noon Oct. 15, 1994-Jan. 15, 1995; Noon Oct. 14, 1995-Jan. 7, 1996; Noon Oct. 12, 1996-Jan. 12, 1997.

Yakama Indian Reservation: The 1994-95 Upland Bird Season within the Yakama Indian Reservation shall be the same as the season established by the Yakama Indian Nation.

Western Washington

Ring-necked Pheasant

Bag and Possession Limits: Two (2) pheasants of either sex per day on designated release sites, EXCEPT two (2) cock pheasants per day on other than designated release sites, with a total of fifteen (15) pheasants in possession at any time.

Early season: Sept. 24-30, 1994; Sept. 23-29, 1995; and Sept. 21-27, 1996 for juvenile hunters under 15 and senior hunters 65 years of age or older. Juvenile hunters must be accompanied by an adult.

Oct. 1-Nov. 30, 1994; Sept. 30-Nov. 30, 1995; and Sept. 28-Nov. 30, 1996; 8 a.m. to 4 p.m.; except Voice of America site (Clallam County) starting Oct. 15, 1994; Oct. 14, 1995; Oct. 12, 1996; except CLOSED in GMU 522.

A Western Washington Upland Bird Permit is required to hunt pheasant, quail, and partridge in western Washington, in addition to a current hunting license. Pheasant kills only must be recorded. Upon taking a pheasant, the holder of a Western Washington Upland Bird Permit must immediately enter on the corresponding space the date and location of kill.

There are three options available for the 1994, 1995, 1996 hunting season:

- (1) Full Season Option: Allows the harvest of ten (10) pheasants.
- (2) Juvenile (under 15): Allows the harvest of six (6) pheasants.
- (3) 2-Day Option: Allows the harvest of four (4) pheasants during two consecutive days.

Every person possessing a Western Washington Upland Bird Permit must by December 31, return the permit to the Department of Fish and Wildlife. The number of permits purchased per person is not limited.

A hunter shall select one valid option at the time they purchase their Western Washington Upland Bird Permit.

Special Restriction: Steelshot must be used in a shotgun to hunt pheasant on the Skagit Wildlife Area. Hunting is restricted on weekend mornings at Lake Terrell (all units including ARCO and INTELCO), Tennant Lake, Snoqualmie (including Stillwater, Cherry Valley, and Two Rivers segments) and Skagit (including headquarters and Smith Farm segments) Wildlife Areas. Only hunters with western Washington upland bird permits marked "odd" may hunt these sites from 8:00 a.m. until 12:00 noon on odd numbered

weekend days. Only hunters with Western Washington Upland Bird Permits marked "even" may hunt these sites from 8:00 a.m. until 12:00 noon on even numbered weekend days. Hunters that select the two day option and juvenile hunters 14 years of age or younger may hunt during either weekend day morning. Juvenile hunters must be accompanied by an adult with an appropriately marked upland bird permit.

Mountain Quail

Bag and Possession Limits: Two (2) mountain quail per day, with a total of four (4) mountain quail in possession at any time.

Oct. 15-Nov. 30, 1994; Oct. 14-Nov. 30, 1995; Oct. 12-Nov. 30, 1996; except CLOSED in GMU 522.

Valley and Bobwhite Quail

Bag and Possession Limits: Ten (10) valley or bobwhite quail per day, with a total of thirty (30) valley or bobwhite quail in possession at any time; straight or mixed bag.

Oct. 15-Nov. 30, 1994; Oct. 14-Nov. 30, 1995; Oct. 12-Nov. 30, 1996; except CLOSED in GMU 522.

TURKEY

Spring Season

Gobblers and Turkeys with Visible Beards Only.

Statewide: April 15-May 15, 1995; April 15-May 15, 1996; and April 15-May 15, 1997.

Fall Season

Either Sex

Klickitat and Skamania counties: Nov. 18-22, 1994; Nov. 17-21, 1995; Nov. 22-26, 1996.

Asotin, Columbia, Garfield, and Walla Walla counties: Nov. 18-22, 1994; Nov. 17-21, 1995; Nov. 22-26, 1996. Only hunters that successfully complete the Department of Fish and Wildlife's Advanced Hunter Education (AHE) program will be eligible to hunt turkeys during this season. A certification card will be issued to all AHE graduates and must be in possession in addition to a valid hunting license and turkey tag while hunting in this area.

OFFICIAL HUNTING HOURS/BAG LIMITS:

Bag and Possession Limit: One turkey per calendar year for 1994. One turkey per day, with a total of three (3) per year; only one turkey from each subspecies may be killed per year in 1995 and 1996. Subspecies are defined by county of kill.

Eastern Wild Turkey: All of western Washington excluding Skamania and Klickitat counties.

Rio Grande Wild Turkey: All of eastern Washington excluding Klickitat, Ferry, Pend Oreille, and Stevens counties.

Merriam's Wild Turkey: Skamania, Klickitat, Pend Oreille, Ferry and Stevens counties.

Tag Sale Cutoff: To purchase multiple turkey tags, hunters shall send the appropriate tag fee (resident or non-resident) for each additional tag and their original 1995, 1996, or 1997

turkey tag to: Upland Bird Program, Washington Department of Fish and Wildlife, 600 Capitol Way N., Olympia, WA 98501-1091. All multiple tag requests must be received by March 31, each year; a single statewide tag may be purchased at any time.

Hunting Hours: One-half hour before sunrise to one-half hour after sunset during spring and fall seasons.

SPECIAL REGULATIONS:

1. Turkey season is open for shotgun and bow-and-arrow hunting only.
2. A turkey tag is required for hunting turkey.
3. Each successful hunter must complete and return a game harvest report card to the Department of Fish and Wildlife within ten days after taking a turkey.
4. It is unlawful to use dogs to hunt turkeys.

Sage and Sharp-tailed Grouse

Season Closed Statewide, 1994, 1995, 1996.

BIRD DOG TRAINING SEASON Aug. 1, 1994-Mar. 15, 1995; Aug. 1, 1995-Mar. 15, 1996; and Aug. 1, 1996-Mar. 15, 1997, except from Oct. 1-Nov. 30, 1994, Sept. 30-Nov. 30, 1995, and Sept. 28-Nov. 30, 1996, dog training is prohibited except from 8:00 a.m. to 4:00 p.m. on designated western Washington pheasant release sites.

Dog training may be conducted year around on posted portions of: Region One - Espanola (T 24 N, R 40 E, E1/2 of Sec. 16); Region Two - Wahluke Wildlife Area north of Highway 24; Region Three - South L.T. Murray Wildlife Area; Region Four - Fort Lewis Military Base, Skagit Wildlife Area, Lake Terrell Wildlife Area, and Snoqualmie Wildlife Area; (~~Region Five - Vancouver Wildlife Area;~~) Region Six - Scatter Creek Wildlife Area.

CANADA GOOSE SEPTEMBER SEASON

Early September Canada Goose season for portions of Clark, Cowlitz, Pacific, and Wahkiakum counties.

Bag and Possession Limits: Three (3) Canada geese per day with a total of six (6) in possession at any time.

Sept. 1-12, 1994; Sept. 1-12, 1995; Sept. 1-12, 1996.

Open Area: Those portions of Clark, Cowlitz, Pacific, and Wahkiakum counties within the following boundary: Beginning at the Washington-Oregon border on the Interstate 5 bridge near Vancouver, Washington, north on Interstate 5 to Kelso, west on Highway 4 from Kelso to Highway 401, south and west on Highway 401 to Highway 101 at the Astoria/Megler Bridge, then west on SR 101 to the city of Ilwaco, then west on Gray Drive to Canby Road, then southwest on Canby Road to the north jetty, then southwest on the north jetty to its end, then southeast to the Washington-Oregon state line, then upstream along the Washington/Oregon border to the point of origin.

Steel Shot Requirement: No person shall hunt Canada geese in the open area of the September Canada goose season while using or possessing shotshells loaded with metal other than steel.

BAND-TAILED PIGEON

Closed Season Statewide, 1994, 1995, 1996.

MOURNING DOVE

Bag and possession limits: Ten (10) mourning doves per day with a total of twenty (20) mourning doves in possession at any time.

Statewide: Sept. 1-15 1994; Sept. 1-15, 1995; and Sept. 1-15, 1996; except CLOSED in GMU 522.

RABBIT AND HARE

Cottontail, Snowshoe Hare (or Washington Hare), and White-tailed Jackrabbit.

Bag and Possession Limits: Ten (10) rabbits or hares per day, with a total of thirty (30) in possession at any time; straight or mixed bag.

Statewide: Sept. 1, 1994-Mar. 15, 1995; Sept. 1, 1995-Mar. 15, 1996; Sept. 1, 1996-Mar. 15, 1997; except CLOSED in GMU 522.

Black-tailed Jackrabbit

Bag and Possession Limits: Ten (10) Black-tailed jackrabbits per day, with a total of thirty (30) in possession at any time.

Statewide: Year-around.

FALCONRY SEASONSUpland Game Bird - Falconry

Daily bag: Two (2) pheasants (either sex), six (6) partridge, five (5) quail, and three (3) forest grouse (blue, ruffed, spruce) per day.

Statewide: Sept. 1, 1994-Mar. 15, 1995; Sept. 1, 1995-Mar. 15, 1996; Sept. 1, 1996-Mar. 15, 1997.

Mourning Dove - Falconry

Daily Bag: Three (3) mourning doves per day straight bag or mixed bag with snipe, coots, ~~((and waterfowl))~~ ducks, and geese during established seasons.

Statewide: Sept. 1-15 and Oct. 1-Dec 31, 1994; Sept. 1-15 and Oct. 1-Dec. 31, 1995; Sept. 1-15 and Oct. 1-Dec. 31, 1996.

Rabbit and Hare - Falconry

Daily bag: Ten (10) rabbits or hares per day; straight or mixed bag.

Statewide: Aug. 1, 1994-Mar. 15, 1995; Aug. 1, 1995-Mar. 15, 1996; Aug. 1, 1996-Mar. 15, 1997, for cottontail, snowshoe hare (or Washington hare), white-tailed and black-tailed jackrabbits.

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 95-03-033
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION

[Order 94-144—Filed January 10, 1995, 1:24 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-242 1994-95, 1995-96, 1996-97 Elk hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-098 on November 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-242 differs from the version filed with the code reviser in the following specifics:

1. On page 1 under Modern Firearm Elk Information, the first paragraph has been rewritten as follows: "Modern firearm elk hunters have early and late hunts in all elk areas. Those who ~~((choose))~~ buy the ~~((early))~~ B tag have the first opportunity to hunt bulls. Only ~~((only))~~ those who ~~((choose))~~ buy the ~~((late))~~ C tag are able to apply for special elk permits ~~((except as outlined above for bull permits))~~.

2. On pages 2 and 3, the designation "Antlerless Applicant Tag" was changed to "Permit Applicant Tag" for all elk tag areas.

3. On page 2, under Western Washington open area GMU 602 was added as a permit only area.

4. On page 3, the last sentence, Archery Elk Seasons, Special Notes was deleted. ~~((If drawn, archers must hunt with archery equipment for branched bulls during the permit archery season.))~~

5. On page 4, the early archery elk hunts in GMUs 145-154, 160-169, 175, 181-185 were changed from spike bull or antlerless to spike bull only. Also, GMU 178 was deleted from either sex hunts and added to spike bull only hunts.

6. On page 4, GMU 672 was added to the early archery elk seasons Sept. 1-14.

7. On page 5, GMU 178 was deleted from the either sex hunt and combined with GMU 166 as Spike Bull Only.

8. On page 6, GMU 184 was deleted from the late muzzleloader elk season for 1995 and 1996.

9. On page 7, GMU 178 was deleted from the either sex hunt Nov. 4 and 5, 1995; Nov. 9 and 10, 1996.

10. On page 8, the following hunt was added under Either Sex Hunts.

Elk Area 010 South Spokane
 1995 and 1996 dates - Oct. 20-Nov. 20
 **Advanced Hunter Education hunters Only

Elk Tag - BA, BB, BC, BM**
 Legal Elk - Either Sex

Effective Date of Rule: Thirty-one days after filing.
 December 21, 1994
 John C. McGlenn
 Chairman

PERMANENT

AMENDATORY SECTION [(Amending Order 94-55, filed 8/31/94)]

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 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 or antlerless 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))~~ buy the ~~((early))~~ **B** tag have the first opportunity to hunt bulls. ~~Only~~ ~~((only))~~ those who ~~((choose))~~ buy the ~~((late))~~ **C** 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.

BA - Blue Mountains Archery Tag

~~((BE))~~ **BB** - Blue Mountains ~~((Early))~~ Bull Tag

~~((BL))~~ **BC** - Blue Mountains ~~((Late))~~ Permit Applicant

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 302, 314-329 are spike bull only, except by permit.

CA - Colockum Archery Tag

~~((CE))~~ **CB** - Colockum ~~((Early))~~ Bull Tag

~~((CL))~~ **CC** - Colockum ~~((Late))~~ Permit Applicant 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))~~ 371, and 372. GMUs 302, 335-368 are spike bull only, except by permit.

YA - Yakima Archery Tag

~~((YE))~~ **YB** - Yakima ~~((Early))~~ Bull Tag

~~((YL))~~ **YC** - Yakima ~~((Late))~~ Permit Applicant 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.

WA - Western Washington Archery Tag

~~((WE))~~ **WB** - Western Washington ~~((Early))~~ Bull Tag

~~((WL))~~ **WC** - Western Washington ~~((Late))~~ Permit Applicant Tag

Tag

~~((WA - Western Washington Archery Tag))~~

WM - Western Washington Muzzleloader Tag

	<u>1994</u>	<u>1995</u>	<u>1996</u>
Blue Mountains			
((BE)) <u>BB</u> - Blue Mountains ((Early)) <u>Bull Elk Tag</u>	Oct. 26-Nov. 6	Oct. 25-Nov. 5	Oct. 30-Nov. 10
((BL)) <u>BC</u> - Blue Mountains ((Late)) <u>Permit Applicant</u> Elk Tag	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10
Colockum			
((CE)) <u>CB</u> - Colockum ((Early)) <u>Bull Elk Tag</u>	Oct. 26-Nov. 3	Oct. 26-Nov. 3	Oct. 26-Nov. 3
((CL)) <u>CC</u> - Colockum ((Late)) <u>Permit Applicant</u> Elk Tag	Oct. 29-Nov. 3	Oct. 29-Nov. 3	Oct. 29-Nov. 3
Yakima			
((YE)) <u>YB</u> - Yakima ((Early)) <u>Bull Elk Tag</u>	Nov. 5-15	Nov. 5-15	Nov. 5-15
((YL)) <u>YC</u> - Yakima ((Late)) <u>Permit Applicant</u> Elk Tag	Nov. 8-15	Nov. 8-15	Nov. 8-15
Western Washington			
((WE)) <u>WB</u> - Western Washington ((Early)) <u>Bull</u> Elk Tag	Nov. 2-13	Nov. 1-13	Nov. 6-17
((WL)) <u>WC</u> - Western Washington ((Late)) <u>Permit</u> <u>Applicant</u> 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)) <u>119</u> , 121-142 ((178))	BA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
145-154, 160- 169, 175, <u>178</u> , 181-185	BA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Spike <u>bull only</u> ((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)) <u>371, 372</u>	YA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex
335, ((356;)) 336, 340, 352, <u>356</u> , 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, <u>660</u> , 663, 667, 669, <u>672</u> , 678	WA	Sept. 1-14	Sept. 1-14	Sept. 1-14	Either sex

PERMANENT

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, 178	BA	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	((Antlerless only)) Spike bull 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.

PERMANENT

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 <u>only</u>
603	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Bull only
607	WM	Oct. 6-12	No Season	Oct. 3-9	3 pt. min.
612	WM	No Season	Oct. 5-11	No Season	Bull only
460, 506, 636	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	3 pt. min.
484, 501, 564, 684	WM	Oct. 6-12	Oct. 5-11	Oct. 3-9	Either sex
Muzzleloader					
Area 910	YM	Oct. 1-12	Oct. 1-11	Oct. 1-9	Spike bull or antlerless

* The portion of GMU 314 bordered by the Colockum Pass Road (Road 10), Naneum Ridge Road (Road 9), and Ingersol Road (Road 1) is closed. See Naneum Green Dot Map.

Late Muzzleloader Elk Seasons

Tag Required: Elk hunter must have a current, valid, unaltered, unnotched muzzleloader elk tag as designated below on his/her person.

GMUs	Elk Tag	1994 Dates	1995 Dates	1996 Dates	Legal Elk
130, 133, 136, 139	BM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
184	BM	Nov. 23-Dec. 15	((Nov. 22-Dec. 15))	((Nov. 27-Dec. 15))	Antlerless only
346	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless
484	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
501, 568, 574, 576, 586	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
505	WM	Nov. 15-20	Nov. 14-19	Nov. 19-24	Either sex
504, 550	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Bull only
601	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	3 pt. bull min.
684	WM	Nov. 23-Dec. 15	Nov. 22-Dec. 15	Nov. 27-Dec. 15	Either sex
Muzzleloader Areas					
910	YM	Nov. 16-Dec. 8	Nov. 16-Dec. 8	Nov. 16-Dec. 8	Spike bull or antlerless
944	YM	Nov. 16-19	Nov. 16-19	Nov. 16-19	Spike bull or antlerless

Special Elk Hunts Open to Specified Tag Holders

Tag Required: Proper elk tags are listed with each GMU below.

Hunting Method: Hunters must use method listed on their tag, except in Firearm Restriction Areas, where some types of weapons are banned from use. See elk tag required, dates, and legal elk in table below.

PERMANENT

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)) <u>BB, BC</u>	Oct. 29-Nov. 6	Oct. 28-Nov. 5	Nov. 2-10	Either sex
178	((BE, BL)) <u>BB, BC</u>	Nov. 5-6	((Nov. 4-5))	((Nov. 9-10))	Either sex
((370)) <u>371, 372</u>	CM, ((YE, YL)), YB, YC, YM	Nov. 5-13	Nov. 5- ((43)) <u>15</u>	Nov. 5- ((43)) <u>15</u>	Either sex
564*	WA, WM, ((WE, WL)) <u>WB, WC</u>	Nov. 2-13	Nov. 1-13	Nov. 6-17	Either sex
501, 568, 574, 576, 586, 588	((WE, WL)) <u>WB, WC</u>	Nov. 2-13	Nov. 1-13	Nov. 6-17	Either sex
300, 304, 306, 308, 316 east of Highway 2	((CE, CL)) <u>CB, CC, CM</u>	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
<u>Elk Area 010</u>	<u>BA, BB, BC, BM**</u>	<u>Oct. 20-Nov. 20</u>	<u>Oct. 20-Nov. 20</u>	<u>Either sex</u>	

* Archery or Muzzleloader Equipment Only. Modern Firearm elk tag holders may hunt but must use primitive weapons.
 ** Advanced Hunter Education hunters only.

Private Lands Wildlife Management Opportunities

Kapowsin Tree Farm (PLWMA 401 - Champion)

Hunting Method	Elk Tag	((1994)) <u>1995 Open Season</u>	<u>1996 Open Season</u>	Special Restrictions
Archery	WA	Sept. 1-14	<u>Sept. 1-14</u>	Spike Bull or Antlerless
Modern Firearm	((WE)) <u>WB</u>	Nov. ((2)) <u>1-13</u>	<u>Nov. 6-17</u>	Spike Bull Only
	((WL)) <u>WC</u>	Nov. ((5)) <u>4-13</u>	<u>Nov. 9-17</u>	Spike Bull Only
Muzzleloader	WM	Nov. ((23)) <u>22-Dec. 5</u>	<u>Nov. 27-Dec. 5</u>	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.

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 95-03-034
 PERMANENT RULES
 FISH AND WILDLIFE
 COMMISSION**

[Order 94-145—Filed January 10, 1995, 1:26 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-12-131 Permits for special hunting and trapping seasons.

Citation of Existing Rules Affected by this Order: Amending WAC 232-12-131 Permits for special hunting and trapping seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-099 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
 Chairman

PERMANENT

AMENDATORY SECTION [(Amending Order 638, filed 5/10/94)]

WAC 232-12-131 Permits for special hunting and trapping seasons. (1) Holders of valid hunting licenses may apply for permits for special hunting seasons as prescribed by the commission.

(2) Holders of valid trapping licenses may apply for permits for special trapping seasons as prescribed by the commission.

(3) It is unlawful for a person receiving a special ~~((modern firearm or archery))~~ hunting season elk permit to apply for an elk permit for the next two years ~~((Except))~~. Those hunters drawing special hunting season elk permits for hunts designated for Disabled~~((Holders of Disabled Hunter Permits))~~ or Blind/Visually Impaired~~((Handicapped Hunter Permits))~~, and muzzleloader only ~~((hunters))~~ are exempt from the two year waiting period.

(4) It is unlawful for a person receiving a special hunting season cougar permit to apply for such a permit for the next two years. A person applying for a cougar permit during that period will be made ineligible for that year's drawing.

(5) It is unlawful for a person receiving a special hunting season goat permit to apply for such a permit for the next five years. A person applying for a goat permit during that period will be made ineligible for that year's drawing.

(6) It is unlawful for a person receiving a special hunting season permit for mountain sheep to apply for another permit for that species if they are successful in taking a mountain sheep. A person who receives a special permit for mountain sheep and is unsuccessful in taking a

sheep may reapply after waiting for five years. A person applying for a sheep permit during that period will be made ineligible for that year's drawing.

(7) It is unlawful for a person receiving a moose permit to apply for another permit for that species.

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

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 95-03-035
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-147—Filed January 10, 1995, 1:30 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To adopt WAC 232-28-24102 1995-96 and 1996-97 Official hunting hours for migratory game birds and 1995-96 and 1996-97 Official hunting hours for other game species.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-101 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-24102 1995-96 and 1996-97 Official hunting hours for migratory game birds and 1995-96 and 1996-97 Official hunting hours for other game species

1995-96 OFFICIAL HUNTING HOURS FOR MIGRATORY GAME BIRDS*

September 1, 1995 to January 31, 1996

Dates (Inclusive)	West Slope Zone (Seattle times)		Coastal Zone (Tatoosh Is. times)			
	A.M. to	P.M.	A.M. to	P.M.		
	Daylight Savings Time					
Fri. Sept. 1	-	Sun. Sept. 3	5:57	7:48	6:07	7:59
Mon. Sept. 4	-	Sun. Sept. 10	6:04	7:38	6:13	7:48
Mon. Sept. 11	-	Sun. Sept. 17	6:14	7:24	6:23	7:34
Mon. Sept. 18	-	Sun. Sept. 24	6:23	7:09	6:33	7:19
Mon. Sept. 25	-	Sun. Oct. 1	6:33	6:55	6:43	7:04
Mon. Oct. 2	-	Sun. Oct. 8	6:42	6:41	6:53	6:50
Mon. Oct. 9	-	Fri. Oct. 13	6:51	6:29	7:01	6:38
Opening		Sat. Oct. 14	8:00	6:23	8:00	6:32
Weekend**		Sun. Oct. 15	6:57	6:21	7:07	6:30
Mon. Oct. 16	-	Sun. Oct. 22	7:02	6:14	7:14	6:22
Mon. Oct. 23	-	Sat. Oct. 28	7:12	6:02	7:24	6:11
	Pacific Standard Time					
		Sun. Oct. 29	6:17	4:57	6:29	5:05
Mon. Oct. 30	-	Sun. Nov. 5	6:23	4:50	6:35	4:58
Mon. Nov. 6	-	Sun. Nov. 12	6:34	4:40	6:46	4:48
Mon. Nov. 13	-	Sun. Nov. 19	6:45	4:32	6:57	4:39
Mon. Nov. 20	-	Sun. Nov. 26	6:55	4:25	7:07	4:32

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Mon.	Nov. 27	-	Sun.	Dec. 3	7:04	4:20	7:15	4:27
Mon.	Dec. 4	-	Sun.	Dec. 10	7:12	4:18	7:25	4:24
Mon.	Dec. 11	-	Sun.	Dec. 17	7:18	4:18	7:32	4:24
Mon.	Dec. 18	-	Sun.	Dec. 24	7:23	4:19	7:37	4:26
Mon.	Dec. 25	-	Sun.	Dec. 31	7:26	4:24	7:39	4:31
Mon.	Jan. 1	-	Sun.	Jan. 7	7:26	4:31	7:39	4:38
Mon.	Jan. 8	-	Sun.	Jan. 14	7:24	4:39	7:37	4:46
Mon.	Jan. 15	-	Sun.	Jan. 21	7:20	4:48	7:33	4:56
Mon.	Jan. 22	-	Sun.	Jan. 28	7:13	4:58	7:26	5:06
Mon.	Jan. 29	-	Wed.	Jan. 31	7:08	5:06	7:20	5:14

				East Slope Zone (Yakima times)		Far East Zone (Spokane times)		
Dates (Inclusive)				A.M. to	P.M.	A.M. to	P.M.	
Daylight Savings Time								
Fri.	Sept. 1	-	Sun.	Sept. 3	5:52	7:40	5:39	7:29
Mon.	Sept. 4	-	Sun.	Sept. 10	5:59	7:30	5:45	7:19
Mon.	Sept. 11	-	Sun.	Sept. 17	6:08	7:16	5:55	7:05
Mon.	Sept. 18	-	Sun.	Sept. 24	6:17	7:02	6:04	6:50
Mon.	Sept. 25	-	Sun.	Oct. 1	6:26	6:48	6:14	6:36
Mon.	Oct. 2	-	Sun.	Oct. 8	6:35	6:34	6:23	6:22
Mon.	Oct. 9	-	Fri.	Oct. 13	6:43	6:23	6:32	6:10
Opening			Sat.	Oct. 14	12:00	6:18	12:00	6:04
					noon		noon	
Weekend**			Sun.	Oct. 15	6:48	6:16	6:38	6:02
Mon.	Oct. 16	-	Sun.	Oct. 22	6:54	6:08	6:44	5:55
Mon.	Oct. 23	-	Sat.	Oct. 28	7:03	5:57	6:53	5:43
Pacific Standard Time								
			Sun.	Oct. 29	6:08	4:52	5:58	4:38
Mon.	Oct. 30	-	Sun.	Nov. 5	6:14	4:45	6:05	4:31
Mon.	Nov. 6	-	Sun.	Nov. 12	6:25	4:36	6:15	4:22
Mon.	Nov. 13	-	Sun.	Nov. 19	6:35	4:28	6:26	4:15
Mon.	Nov. 20	-	Sun.	Nov. 26	6:44	4:21	6:36	4:08
Mon.	Nov. 27	-	Sun.	Dec. 3	6:53	4:17	6:45	4:01
Mon.	Dec. 4	-	Sun.	Dec. 10	7:01	4:15	6:53	3:59
Mon.	Dec. 11	-	Sun.	Dec. 17	7:08	4:15	7:00	3:58
Mon.	Dec. 18	-	Sun.	Dec. 24	7:13	4:17	7:05	4:01
Mon.	Dec. 25	-	Sun.	Dec. 31	7:15	4:21	7:07	4:05
Mon.	Jan. 1	-	Sun.	Jan. 7	7:15	4:28	7:07	4:12
Mon.	Jan. 8	-	Sun.	Jan. 14	7:13	4:36	7:05	4:20
Mon.	Jan. 15	-	Sun.	Jan. 21	7:09	4:45	7:01	4:29
Mon.	Jan. 22	-	Sun.	Jan. 28	7:03	4:55	6:54	4:40
Mon.	Jan. 29	-	Wed.	Jan. 31	6:58	5:02	6:49	4:47

West Slope Zone: East from I-5 to the Pacific Crest Trail.

Coastal Zone: From the west coast of Washington, east to I-5.

East Slope Zone: East from the Pacific Crest Trail to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: From the East Slope Zone boundary (Highway 21 from Canadian border to its junction with Highway 395, south on Highway 395 to Oregon border) to the Idaho border.

*Migratory game birds include ducks, geese, coots, snipe, and mourning doves. The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset. For these species, hunters can use the Hunting Hour table for AM time and just add 30 minutes for PM time.

**Opening Day - In Eastern Washington, upland bird, duck, goose, coot, and snipe seasons open at noon. In Western Washington, upland bird, duck, goose, coot, and snipe seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.

- 3) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon season except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 4) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1996-97 OFFICIAL HUNTING HOURS FOR MIGRATORY GAME BIRDS*

September 1, 1996 to January 31, 1997

Dates (Inclusive)				West Slope Zone (Seattle times)		Coastal Zone (Tatoosh Is. times)		
				A.M. to	P.M.	A.M. to	P.M.	
				Daylight Savings Time				
		-	Sun.	Sept. 1	5:56	7:50	6:05	8:01
Mon.	Sept. 2	-	Sun.	Sept. 8	6:01	7:42	6:11	7:53
Mon.	Sept. 9	-	Sun.	Sept. 15	6:11	7:28	6:20	7:38
Mon.	Sept. 16	-	Sun.	Sept. 22	6:20	7:14	6:30	7:23
Mon.	Sept. 23	-	Sun.	Sept. 29	6:30	6:59	6:40	7:09
Mon.	Sept. 30	-	Sun.	Oct. 6	6:39	6:45	6:50	6:54
Mon.	Oct. 7	-	Fri.	Oct. 11	6:48	6:33	6:59	6:42
Opening			Sat.	Oct. 12	8:00	6:27	8:00	6:36
Weekend**			Sun.	Oct. 13	6:54	6:25	7:04	6:34
Mon.	Oct. 14	-	Sun.	Oct. 20	7:00	6:17	7:11	6:26
Mon.	Oct. 21	-	Sat.	Oct. 26	7:09	6:06	7:20	6:14
				Pacific Standard Time				
			Sun.	Oct. 27	6:14	5:00	6:26	5:08
Mon.	Oct. 28	-	Sun.	Nov. 3	6:20	4:53	6:32	5:01
Mon.	Nov. 4	-	Sun.	Nov. 10	6:31	4:43	6:43	4:50
Mon.	Nov. 11	-	Sun.	Nov. 17	6:42	4:34	6:54	4:41
Mon.	Nov. 18	-	Sun.	Nov. 24	6:52	4:27	7:05	4:34
Mon.	Nov. 25	-	Sun.	Dec. 1	7:01	4:21	7:13	4:28
Mon.	Dec. 2	-	Sun.	Dec. 8	7:10	4:18	7:23	4:25
Mon.	Dec. 9	-	Sun.	Dec. 15	7:17	4:18	7:30	4:24
Mon.	Dec. 16	-	Sun.	Dec. 22	7:22	4:19	7:36	4:25
Mon.	Dec. 23	-	Sun.	Dec. 29	7:25	4:23	7:39	4:29
Mon.	Dec. 30	-	Sun.	Jan. 5	7:26	4:29	7:40	4:36
Mon.	Jan. 6	-	Sun.	Jan. 12	7:25	4:37	7:38	4:43
Mon.	Jan. 13	-	Sun.	Jan. 19	7:21	4:46	7:34	4:53
Mon.	Jan. 20	-	Sun.	Jan. 26	7:15	4:56	7:28	5:03
Mon.	Jan. 27	-	Fri.	Jan. 31	7:09	5:04	7:21	5:13

Dates (Inclusive)				East Slope Zone (Yakima times)		Far East Zone (Spokane times)		
				A.M. to	P.M.	A.M. to	P.M.	
				Daylight Savings Time				
			Sun.	Sept. 1	5:51	7:42	5:37	7:31
Mon.	Sept. 2	-	Sun.	Sept. 8	5:56	7:34	5:43	7:23
Mon.	Sept. 9	-	Sun.	Sept. 15	6:05	7:20	5:52	7:09
Mon.	Sept. 16	-	Sun.	Sept. 22	6:14	7:06	6:02	6:54
Mon.	Sept. 23	-	Sun.	Sept. 29	6:23	6:52	6:11	6:40
Mon.	Sept. 30	-	Sun.	Oct. 6	6:32	6:38	6:21	6:26
Mon.	Oct. 7	-	Fri.	Oct. 11	6:40	6:27	6:29	6:14
Opening			Sat.	Oct. 12	12:00	6:21	12:00	6:08
					noon		noon	
Weekend**			Sun.	Oct. 13	6:46	6:20	6:35	6:06
Mon.	Oct. 14	-	Sun.	Oct. 20	6:51	6:12	6:41	5:58
Mon.	Oct. 21	-	Sat.	Oct. 26	7:01	6:00	6:50	5:47
				Pacific Standard Time				
			Sun.	Oct. 27	6:05	4:55	5:55	4:41
Mon.	Oct. 28	-	Sun.	Nov. 3	6:12	4:48	6:02	4:34
Mon.	Nov. 4	-	Sun.	Nov. 10	6:22	4:38	6:12	4:24
Mon.	Nov. 11	-	Sun.	Nov. 17	6:32	4:30	6:23	4:17
Mon.	Nov. 18	-	Sun.	Nov. 24	6:42	4:23	6:33	4:10

PERMANENT

Mon.	Nov. 25	-	Sun.	Dec. 1	6:51	4:18	6:43	4:03
Mon.	Dec. 2	-	Sun.	Dec. 8	6:59	4:15	6:51	3:59
Mon.	Dec. 9	-	Sun.	Dec. 15	7:06	4:15	6:58	3:58
Mon.	Dec. 16	-	Sun.	Dec. 22	7:11	4:16	7:04	4:00
Mon.	Dec. 23	-	Sun.	Dec. 29	7:15	4:20	7:07	4:04
Mon.	Dec. 30	-	Sun.	Jan. 5	7:15	4:26	7:07	4:10
Mon.	Jan. 6	-	Sun.	Jan. 12	7:14	4:34	7:06	4:17
Mon.	Jan. 13	-	Sun.	Jan. 19	7:11	4:42	7:03	4:27
Mon.	Jan. 20	-	Sun.	Jan. 26	7:05	4:52	6:56	4:37
Mon.	Jan. 27	-	Fri.	Jan. 31	6:59	5:01	6:50	4:46

West Slope Zone: East from I-5 to the Pacific Crest Trail.

Coastal Zone: From the west coast of Washington, east to I-5.

East Slope Zone: East from the Pacific Crest Trail to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: From the East Slope Zone boundary (Highway 21 from Canadian border to its junction with Highway 395, south on Highway 395 to Oregon border) to the Idaho border.

*Migratory game birds include ducks, geese, coots, snipe, and mourning doves. The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset. For these species, hunters can use the Hunting Hour table for AM time and just add 30 minutes for PM time.

**Opening Day - In Eastern Washington, upland bird, duck, goose, coot, and snipe seasons open at noon. In Western Washington, upland bird, duck, goose, coot, and snipe seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon season except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 4) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1995-96 OFFICIAL HUNTING HOURS FOR ALL GAME ANIMALS AND BIRDS EXCEPT MIGRATORY GAME BIRDS*

September 1, 1995 to January 31, 1996

				West Slope Zone (Seattle times)		Coastal Zone (Tatoosh Is. times)			
Dates (Inclusive)				A.M. to	P.M.	A.M. to	P.M.		
Daylight Savings Time									
Fri.	Sept. 1	-	Sun.	Sept. 3	5:57	8:18	6:07	8:29	
Mon.	Sept. 4	-	Sun.	Sept. 10	6:04	8:08	6:13	8:18	
Mon.	Sept. 11	-	Sun.	Sept. 17	6:14	7:54	6:23	8:04	
Mon.	Sept. 18	-	Sun.	Sept. 24	6:23	7:39	6:33	7:49	
Mon.	Sept. 25	-	Sun.	Oct. 1	6:33	7:25	6:43	7:34	
Mon.	Oct. 2	-	Sun.	Oct. 8	6:42	7:11	6:53	7:20	
Mon.	Oct. 9	-	Fri.	Oct. 13	6:51	6:59	7:01	7:08	
Opening				Sat.	Oct. 14	6:56	6:53	7:06	7:02
Weekend**				Sun.	Oct. 15	6:57	6:51	7:07	7:00
Mon.	Oct. 16	-	Sun.	Oct. 22	7:02	6:44	7:14	6:52	
Mon.	Oct. 23	-	Sat.	Oct. 28	7:12	6:32	7:24	6:41	
Pacific Standard Time									
			Sun.	Oct. 29	6:17	5:27	6:29	5:35	
Mon.	Oct. 30	-	Sun.	Nov. 5	6:23	5:20	6:35	5:28	
Mon.	Nov. 6	-	Sun.	Nov. 12	6:34	5:10	6:46	5:18	
Mon.	Nov. 13	-	Sun.	Nov. 19	6:45	5:02	6:57	5:09	
Mon.	Nov. 20	-	Sun.	Nov. 26	6:55	4:55	7:07	5:02	
Mon.	Nov. 27	-	Sun.	Dec. 3	7:04	4:50	7:15	4:57	
Mon.	Dec. 4	-	Sun.	Dec. 10	7:12	4:48	7:25	4:54	
Mon.	Dec. 11	-	Sun.	Dec. 17	7:18	4:48	7:32	4:54	
Mon.	Dec. 18	-	Sun.	Dec. 24	7:23	4:49	7:37	4:56	
Mon.	Dec. 25	-	Sun.	Dec. 31	7:26	4:54	7:39	5:01	

PERMANENT

Mon.	Jan. 1	-	Sun.	Jan. 7	7:26	5:01	7:39	5:08
Mon.	Jan. 8	-	Sun.	Jan. 14	7:24	5:09	7:37	5:16
Mon.	Jan. 15	-	Sun.	Jan. 21	7:20	5:18	7:33	5:26
Mon.	Jan. 22	-	Sun.	Jan. 28	7:13	5:28	7:26	5:36
Mon.	Jan. 29	-	Wed.	Jan. 31	7:08	5:36	7:20	5:44

East Slope Zone
(Yakima times)

Far East Zone
(Spokane times)

Dates (Inclusive)				A.M. to	P.M.	A.M. to	P.M.	
Daylight Savings Time								
Fri.	Sept. 1	-	Sun.	Sept. 3	5:52	8:10	5:39	7:59
Mon.	Sept. 4	-	Sun.	Sept. 10	5:59	8:00	5:45	7:49
Mon.	Sept. 11	-	Sun.	Sept. 17	6:08	7:46	5:55	7:35
Mon.	Sept. 18	-	Sun.	Sept. 24	6:17	7:32	6:04	7:20
Mon.	Sept. 25	-	Sun.	Oct. 1	6:26	7:18	6:14	7:06
Mon.	Oct. 2	-	Sun.	Oct. 8	6:35	7:04	6:23	6:52
Mon.	Oct. 9	-	Fri.	Oct. 13	6:43	6:53	6:32	6:40
Opening			Sat.	Oct. 14	6:47	6:48	6:37	6:34
Weekend**			Sun.	Oct. 15	6:48	6:46	6:38	6:32
Mon.	Oct. 16	-	Sun.	Oct. 22	6:54	6:38	6:44	6:25
Mon.	Oct. 23	-	Sat.	Oct. 28	7:03	6:27	6:53	6:13
Pacific Standard Time								
			Sun.	Oct. 29	6:08	5:22	5:58	5:08
Mon.	Oct. 30	-	Sun.	Nov. 5	6:14	5:15	6:05	5:01
Mon.	Nov. 6	-	Sun.	Nov. 12	6:25	5:06	6:15	4:52
Mon.	Nov. 13	-	Sun.	Nov. 19	6:35	4:58	6:26	4:45
Mon.	Nov. 20	-	Sun.	Nov. 26	6:44	4:51	6:36	4:38
Mon.	Nov. 27	-	Sun.	Dec. 3	6:53	4:47	6:45	4:31
Mon.	Dec. 4	-	Sun.	Dec. 10	7:01	4:45	6:53	4:29
Mon.	Dec. 11	-	Sun.	Dec. 17	7:08	4:45	7:00	4:28
Mon.	Dec. 18	-	Sun.	Dec. 24	7:13	4:47	7:05	4:31
Mon.	Dec. 25	-	Sun.	Dec. 31	7:15	4:51	7:07	4:35
Mon.	Jan. 1	-	Sun.	Jan. 7	7:15	4:58	7:07	4:42
Mon.	Jan. 8	-	Sun.	Jan. 14	7:13	5:06	7:05	4:50
Mon.	Jan. 15	-	Sun.	Jan. 21	7:09	5:15	7:01	4:59
Mon.	Jan. 22	-	Sun.	Jan. 28	7:03	5:25	6:54	5:10
Mon.	Jan. 29	-	Wed.	Jan. 31	6:58	5:32	6:49	5:17

West Slope Zone: East from I-5 to the Pacific Crest Trail.

Coastal Zone: From the west coast of Washington, east to I-5.

East Slope Zone: East from the Pacific Crest Trail to Highway 21 where it intersects with the Canadian border, south on Highway 21 to its junction with Highway 395, south on Highway 395 to the Oregon border.

Far East Zone: From the East Slope Zone boundary (Highway 21 from Canadian border to its junction with Highway 395, south on Highway 395 to Oregon border) to the Idaho border.

*Migratory game birds include ducks, geese, coots, snipe, and mourning doves. The lawful hunting hours for game animals and all other game birds during established seasons are one-half hour before sunrise to one-half hour after sunset. For migratory game birds, hunters can use the Hunting Hour table for AM time and just subtract 30 minutes for PM time.

**Opening Day - In Eastern Washington, upland bird, duck, goose, coot, and snipe seasons open at noon. In Western Washington, upland bird, duck, goose, coot, and snipe seasons open at 8:00 a.m.

Exceptions:

- 1) Western Washington - Pheasant and quail hunting hours are 8:00 a.m. to 4:00 p.m. on designated pheasant release sites.
- 2) Western Washington - Cottontail and snowshoe hare (Washington hare) hunting hours are 8:00 a.m. to 4:00 p.m. during the pheasant hunting season on designated pheasant release sites.
- 3) Bobcat and raccoons are exempt from hunting hour restrictions during established bobcat and raccoon season except when that area is open to modern firearm hunting of deer or elk, hunting hours shall be one-half hour before sunrise to one-half hour after sunset.
- 4) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

1996-97 OFFICIAL HUNTING HOURS FOR ALL GAME ANIMALS AND BIRDS EXCEPT MIGRATORY GAME BIRDS*

September 1, 1996 to January 31, 1997

Dates (Inclusive)				West Slope Zone (Seattle times)		Coastal Zone (Tatoosh Is. times)		
				A.M. to	P.M.	A.M. to	P.M.	
				Daylight Savings Time				
		-	Sun.	Sept. 1	5:56	8:20	6:05	8:31
Mon.	Sept. 2	-	Sun.	Sept. 8	6:01	8:12	6:11	8:23
Mon.	Sept. 9	-	Sun.	Sept. 15	6:11	7:58	6:20	8:08
Mon.	Sept. 16	-	Sun.	Sept. 22	6:20	7:44	6:30	7:53
Mon.	Sept. 23	-	Sun.	Sept. 29	6:30	7:29	6:40	7:39
Mon.	Sept. 30	-	Sun.	Oct. 6	6:39	7:15	6:50	7:24
Mon.	Oct. 7	-	Fri.	Oct. 11	6:48	7:03	6:59	7:12
Opening			Sat.	Oct. 12	6:53	6:57	7:03	7:06
Weekend**			Sun.	Oct. 13	6:54	6:55	7:04	7:04
Mon.	Oct. 14	-	Sun.	Oct. 20	7:00	6:47	7:11	6:56
Mon.	Oct. 21	-	Sat.	Oct. 26	7:09	6:36	7:20	6:44
				Pacific Standard Time				
			Sun.	Oct. 27	6:14	5:30	6:26	5:38
Mon.	Oct. 28	-	Sun.	Nov. 3	6:20	5:23	6:32	5:31
Mon.	Nov. 4	-	Sun.	Nov. 10	6:31	5:13	6:43	5:20
Mon.	Nov. 11	-	Sun.	Nov. 17	6:42	5:04	6:54	5:11
Mon.	Nov. 18	-	Sun.	Nov. 24	6:52	4:57	7:05	5:04
Mon.	Nov. 25	-	Sun.	Dec. 1	7:01	4:51	7:13	4:58
Mon.	Dec. 2	-	Sun.	Dec. 8	7:10	4:48	7:23	4:55
Mon.	Dec. 9	-	Sun.	Dec. 15	7:17	4:48	7:30	4:54
Mon.	Dec. 16	-	Sun.	Dec. 22	7:22	4:49	7:36	4:55
Mon.	Dec. 23	-	Sun.	Dec. 29	7:25	4:53	7:39	4:59
Mon.	Dec. 30	-	Sun.	Jan. 5	7:26	4:59	7:40	5:06
Mon.	Jan. 6	-	Sun.	Jan. 12	7:25	5:07	7:38	5:13
Mon.	Jan. 13	-	Sun.	Jan. 19	7:21	5:16	7:34	5:23
Mon.	Jan. 20	-	Sun.	Jan. 26	7:15	5:26	7:28	5:33
Mon.	Jan. 27	-	Fri.	Jan. 31	7:09	5:34	7:21	5:43

Dates (Inclusive)				East Slope Zone (Yakima times)		Far East Zone (Spokane times)		
				A.M. to	P.M.	A.M. to	P.M.	
				Daylight Savings Time				
			Sun.	Sept. 1	5:51	8:12	5:37	8:01
Mon.	Sept. 2	-	Sun.	Sept. 8	5:56	8:04	5:43	7:53
Mon.	Sept. 9	-	Sun.	Sept. 15	6:05	7:50	5:52	7:39
Mon.	Sept. 16	-	Sun.	Sept. 22	6:14	7:36	6:02	7:24
Mon.	Sept. 23	-	Sun.	Sept. 29	6:23	7:22	6:11	7:10
Mon.	Sept. 30	-	Sun.	Oct. 6	6:32	7:08	6:21	6:56
Mon.	Oct. 7	-	Fri.	Oct. 11	6:40	6:57	6:29	6:44
Opening			Sat.	Oct. 12	6:45	6:51	6:34	6:38
Weekend**			Sun.	Oct. 13	6:46	6:50	6:35	6:36
Mon.	Oct. 14	-	Sun.	Oct. 20	6:51	6:42	6:41	6:28
Mon.	Oct. 21	-	Sat.	Oct. 26	7:01	6:30	6:50	6:17
				Pacific Standard Time				
			Sun.	Oct. 27	6:05	5:25	5:55	5:11
Mon.	Oct. 28	-	Sun.	Nov. 3	6:12	5:18	6:02	5:04
Mon.	Nov. 4	-	Sun.	Nov. 10	6:22	5:08	6:12	4:54
Mon.	Nov. 11	-	Sun.	Nov. 17	6:32	5:00	6:23	4:47
Mon.	Nov. 18	-	Sun.	Nov. 24	6:42	4:53	6:33	4:40
Mon.	Nov. 25	-	Sun.	Dec. 1	6:51	4:48	6:43	4:33
Mon.	Dec. 2	-	Sun.	Dec. 8	6:59	4:45	6:51	4:29
Mon.	Dec. 9	-	Sun.	Dec. 15	7:06	4:45	6:58	4:28
Mon.	Dec. 16	-	Sun.	Dec. 22	7:11	4:46	7:04	4:30
Mon.	Dec. 23	-	Sun.	Dec. 29	7:15	4:50	7:07	4:34
Mon.	Dec. 30	-	Sun.	Jan. 5	7:15	4:56	7:07	4:40

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Mon.	Jan. 6	-	Sun.	Jan. 12	7:14	5:04	7:06	4:47
Mon.	Jan. 13	-	Sun.	Jan. 19	7:11	5:12	7:03	4:57
Mon.	Jan. 20	-	Sun.	Jan. 26	7:05	5:22	6:56	5:07
Mon.	Jan. 27	-	Fri.	Jan. 31	6:59	5:31	6:50	5:16

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- 4) Hunting hours for falconry seasons are exempt from these hunting hours except on designated pheasant release sites.

**WSR 95-03-036
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-148—Filed January 10, 1995, 1:32 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To adopt WAC 232-28-246 1995-96 Deer and elk permit hunting seasons.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-102 on November 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-246 differs from the proposed version filed with the code reviser in the following specifics:

Note: Some Hunt Numbers have been changed to reflect a sequential numbering order.

1. On page 1, under "To apply for Special Elk Permit" line 4, change visually handicapped to visually impaired.

2. On page 1, under "To apply for Special Elk Permit" line 7, "hunting season elk (~~tag~~) permit for hunts designated for disabled, blind/visually (~~handicapped~~) impaired, and muzzleloader only are . . ."

3. On page 2, the dates for the Mayview A (GMU 145) hunt was changed from Nov. 8-19 to Oct. 1-8.

4. On page 2, the special restrictions for Mayview B (GMU 145) hunt was changed from "Whitetail, Antlerless Only" to "Antlerless Only."

5. On page 3, at the top of the page, the following two new hunts were added:

Guemes Island A	Oct. 14-31	Either Sex	Guemes Island in GMU 405
Guemes Island B	Nov. 1-21	Either Sex	Guemes Island in GMU 405

6. On page 4, the special restrictions for Northeast A and Northeast B hunts were changed from "Whitetail Only, Either Sex" to "Whitetail, Either Sex."

7. On page 4, the hunt name for Lincoln was changed to Davenport.

8. On page 4, the following youth hunts were added:

Starbuck B	Oct. 1-8	Antlerless Only	GMU 148
Marengo B	Oct. 1-8	Antlerless Only	GMU 163

9. On page 4, the special restrictions for Big Bend B was changed from "Antlerless Only" to "Either Sex."

10. On page 4, the special restrictions for Blue Mtns. Foothills C and D were changed from "Either Sex" to "3 Pt. Min. or Antlerless."

11. On page 4, the following hunts were added to senior hunts:

Starbuck C	Oct. 1-8	Antlerless Only	GMU 148
Marengo C	Oct. 1-8	Antlerless Only	GMU 163

12. On page 5, the dates for the Blue Mtns. Foothills G was changed from Oct. 14-22 to Nov. 8-21.

13. On page 6, the special restriction for Kapowsin South "Young" should be followed by an asterisk and footnoted "Applicants must be 16 years old or younger by opening date of the permit season and must be accompanied by an adult during the hunt."

14. On page 6, under modern firearm permit hunts, "Watershed A and Watershed B are combined into one hunt as follows:

Watershed	Oct. 28-Nov. 5	3 Pt. Min. or Antlerless	(BB) BC or BM GMU 157
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15. On pages 6-8, the elk tag prefix required for each hunt was changed for modern firearm hunters for all tag areas from B to C.

16. On page 6, the following hunts were deleted:

Hunt No.	2005 (Blue Creek A)
	2010 (Touchet, Marango)
	2014 (Mountain View A)
	2016 (Couse A)

17. On page 7, the special restrictions for Peshastin A was changed from "Antlerless Only" to "Any Bull."

18. On page 7, the hunt name for Douglas was changed to Goose Prairie A.

19. On page 7, the special restrictions for Green River Bull was changed from "3 Pt. Bull Min." to "3 Pt. Bull Min. or Antlerless."

20. On page 7, the special restrictions for Green River Spike was changed from "Spike Bull Only" to "Spike or Antlerless."

21. On page 7, the following two new hunts were added.

Dickey Bull A	Oct. 1-13	3 Pt. Bull Min.	WC or WM	GMU 602
Dickey Bull B	Nov. 1-13	3 Pt. Bull Min.	WC or WM	GMU 602

22. On page 7, the South Elma hunt was deleted.

23. On page 8, the special restrictions for Backbone B was changed from "Bull Only" to "Any Bull."

24. On page 8, the South Spokane hunt was deleted.

25. On page 8, in the special restrictions for Margaret the word "only" was deleted.

26. On page 8, the year 1996 was added to the dates for South Bank D and South Bank E.

27. On page 8, the special restrictions for Blue Mountains West and East were changed from "Either Sex" to "Any Bull."

28. On page 8, the hunt name Douglas was changed to Goose Prairie B.

29. On page 8, the boundary description label for Divide was changed from "Bow Area" to "Bow Areas."

30. On page 9, after "Champion's Kapowsin Tree Farm" the following was added.

"Only hunters possessing a valid elk tag (any 1995 elk tag) and meeting the special restrictions noted for each hunt are eligible for Champion access permits on PLWMA 401. There will be approximately one to seven hunters authorized to hunt branched bulls Sept. 16-27. Applicants for Branched Bull permits must pay a nonrefundable access fee of 50 to 100 dollars. (To be determined at a later date.) Individuals not drawn for a special access permit will receive a coupon good for one regular three-day access permit.

Persons interested in applying for a Branched Bull permit should inquire at: Champion International, 31716 Camp 1 Road, Orting, Washington 98360. For more information, please call Champion at (206) 879-4200."

Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
Kapowsin Bull A	*	Any Bull	WA, WC, WM	PLWMA 401A
Kapowsin Bull B	*	Any Bull	WA, WC, WM	PLWMA 401B, 401C

*Permit season for archery tag holders Sept. 1-14; modern firearm Nov. 1-13; and Muzzleloader Nov. 22-Dec. 5

December 21, 1994
John C. McGlenn
Chairman

31. On page 9, the special restrictions for Kapowsin North, Kapowsin Central, and Kapowsin South were changed from "Spike Bull or Antlerless" to "Antlerless Only."

32. On page 9, on Kapowsin North, Central, and South under boundary descriptions, the words North, South, and Central were deleted.

33. On page 9, the Touchet, Eckler hunt was deleted. The asterisk at the bottom of the page was also deleted.

34. On page 9, the double asterisk for the boundary descriptions for Centralia Mine A, B, and C was changed to a single asterisk. The footnote at the bottom of the page was changed to a single asterisk.

35. On page 10, the Blue Creek C hunt was deleted.

36. On page 10, the Mountain View C hunt was changed from Spike Bull or Antlerless to Spike Bull Only.

37. On page 10, the following hunt was added:

South Elma Oct. 1-13 Antlerless Only WM Elk Area 063

Effective Date of Rule: Thirty-one days after filing.

NEW SECTION

WAC 232-28-246 1995-96 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 1995 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 Impaired. You may submit one (only one) special deer permit application for 1995. A permit hunter can take only one deer unless otherwise specified by the permit hunt.

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If you were drawn for a Blue Mountains Foothills A or B 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 1995 Washington hunting license and a valid 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 Impaired. You may submit one (only one) special permit application for elk. You may not submit an elk permit application if you were drawn for an elk permit during 1993 or 1994. Those hunters drawing a special hunting season elk permit for hunts designated for disabled, blind/visually impaired, and muzzleloader only 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 March 31, 1995 or received no later than 5:00 p.m. on March 31, 1995 at the Department of Fish and Wildlife headquarters in

Olympia or at any of the regional Department of Fish and Wildlife offices.

- Permits will be drawn by random computer selection.
- There are no refunds or exchanges for deer or elk tags for persons applying for special permits.

Special Hunting Season Permits

You MUST have a valid hunting license and tag to apply for any special hunting season set by the Fish and Wildlife Commission. (Special hunting seasons do not include hunts open to all hunters.)

**SPECIAL DEER PERMIT HUNTING SEASONS
(Open to Permit Holders Only)**

Hunters must purchase a hunting license and deer tag prior to purchase of a permit application. Only modern firearm deer tag holders and muzzleloader deer tag holders may apply for the following permit hunts.

PERMIT QUOTAS

1995 Permit quotas are unknown at this time. Permit quotas may be greater or less than permits authorized in 1994 depending on winter survival. Please do not call Department offices for permit quotas. Quotas will be established at the April Fish and Wildlife Commission meeting.

MODERN FIREARM PERMIT HUNTS (Muzzleloaders may apply.)
Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1001	Curlew	Oct. 7-13	Whitetail, Antlerless Only	GMU 100
1002	Boulder	Oct. 7-13	Whitetail, Antlerless Only	GMU 103
1003	Kelly Hill	Oct. 7-13	Whitetail, Antlerless Only	GMU 105
1004	Douglas	Oct. 7-13	Whitetail, Antlerless Only	GMU 108
1005	Aladdin A	Oct. 7-13	Whitetail, Antlerless Only	GMU 111
1006	Aladdin B	Nov. 22-26	Whitetail, Either Sex	GMU 111
1007	Selkirk	Oct. 7-13	Whitetail, Antlerless Only	GMU 113
1008	Chewelah	Oct. 7-13	Whitetail, Antlerless Only	GMU 118
1009	Boyer A	Oct. 7-13	Whitetail, Antlerless Only	GMU 119
1010	Boyer B	Nov. 22-26	Whitetail, Either Sex	GMU 119
1011	Huckleberry	Oct. 7-13	Whitetail, Antlerless Only	GMU 121
1012	Mt. Spokane	Oct. 7-13	Whitetail, Antlerless Only	GMU 124
1013	Cheney	Oct. 7-13	Antlerless Only	GMU 130
1014	Roosevelt	Oct. 7-13	Antlerless Only	GMU 133
1015	Harrington	Nov. 8-19	Antlerless Only	GMU 136
1016	Steptoe	Nov. 8-19	Antlerless Only	GMU 139
1017	Almota	Nov. 8-19	Antlerless Only	GMU 142
1018	Mayview A	Oct. 1-8	Antlerless Only	GMU 145
1019	Mayview B	Nov. 8-19	Antlerless Only	GMU 145
1020	Starbuck	Nov. 8-19	Antlerless Only	GMU 148
1021	Eureka	Nov. 8-19	Antlerless Only	GMU 151
1022	Blue Creek A	Nov. 8-19	Whitetail, Antlerless Only	GMU 154
1023	Touchet	Nov. 8-19	Whitetail, Antlerless Only	GMU 160
1024	Eckler	Nov. 8-19	Whitetail, Antlerless Only	GMU 161
1025	Marengo A	Nov. 8-19	Whitetail, Antlerless Only	GMU 163
1026	Marengo B	Nov. 8-19	Antlerless Only	GMU 163
1027	Peola	Nov. 8-19	Antlerless Only	GMU 178
1028	Couse	Nov. 8-19	Whitetail, Antlerless Only	GMU 181
1029	Blue Mtns. Foothills A	Nov. 8-21	Whitetail, 3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161,

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1030	Blue Mtns. Foothills B	Nov. 8-21	Whitetail, 3 Pt. Min. or Antlerless	163, 166 GMUs 145, 172, 175, 178, 181
1031	East Okanogan	Dec. 6-13	Whitetail, Either Sex	GMUs 200, 206
1032	West Okanogan	Dec. 6-13	Whitetail, Either Sex	GMUs 209, 218, 224, 231, 233
1033	Wannacut A	Oct. 30- Nov. 5	Antlerless Only	GMU 209
1034	Sinlahekin A	Oct. 30- Nov. 5	Whitetail, Antlerless Only	GMU 215
1035	Sinlahekin B	Dec. 6-13	Whitetail, Either Sex	GMU 215
1036	Chewuch	Oct. 30- Nov. 5	Antlerless Only	GMU 218
1037	Pearrygin	Oct. 30- Nov. 5	Antlerless Only	GMU 224
1038	Gardner	Oct. 30- Nov. 5	Antlerless Only	GMU 231
1039	Pogue	Oct. 30- Nov. 5	Antlerless Only	GMU 233
1040	Big Bend A	Oct. 16-22	Antlerless Only	GMU 248
1041	Badger	Oct. 16-22	Antlerless Only	GMU 266
1042	Moses Coulee A	Oct. 16-22	Antlerless Only	GMU 269
1043	Beezley	Oct. 16-22	Antlerless Only	GMU 272
1044	Wenatchee A	Nov. 1-15	Antlerless Only	Portion of GMU 314*
1045	Guemes Island A	Oct. 14-31	Either Sex	Guemes Island in GMU 405
1046	Guemes Island B	Nov. 1-21	Either Sex	Guemes Island in GMU 405
1047	Green River A	Oct. 21-27	Either Sex	GMU 485
1048	Green River B	Oct. 21-27	Antlerless Only	GMU 485
1049	Lincoln	Oct. 21-31	Either Sex	GMU 501
1050	Mossyrock	Oct. 21-31	Either Sex	GMU 505
1051	Willapa Hills	Oct. 21-31	Either Sex	GMU 506
1052	Stormking	Oct. 21-31	Either Sex	GMU 510
1053	Sawtooth	Oct. 21-31	Either Sex	GMU 512
1054	Packwood	Oct. 21-31	Either Sex	GMU 516
1055	Ryderwood	Oct. 21-31	Either Sex	GMU 530
1056	Coweeman	Oct. 21-31	Either Sex	GMU 550
1057	Lewis River	Oct. 21-31	Either Sex	GMU 560
1058	Siouxon	Oct. 21-31	Either Sex	GMU 572
1059	Hoko	Oct. 21-31	Either Sex	GMU 601
1060	Pysht	Oct. 21-31	Either Sex	GMU 603
1061	Soleduck	Oct. 21-31	Either Sex	GMU 607
1062	Goodman	Oct. 21-31	Either Sex	GMU 612
1063	Clearwater	Oct. 21-31	Either Sex	GMU 615
1064	Olympic	Oct. 21-31	Either Sex	GMU 621
1065	Coyle	Oct. 21-31	Either Sex	GMU 624
1066	Mason Lake	Oct. 21-31	Either Sex	GMU 633
1067	Skokomish	Oct. 21-31	2 Pt. Min. or Antlerless	GMU 636
1068	Wynoochee	Oct. 21-31	Either Sex	GMU 648
1069	North River	Oct. 21-31	Either Sex	GMU 658
1070	Minot Peak	Oct. 21-31	Either Sex	GMU 660
1071	Capitol Peak	Oct. 21-31	Either Sex	GMU 663
1072	Deschutes	Oct. 21-31	Either Sex	GMU 666
1073	Skookumchuck A	Oct. 21-31	Either Sex	GMU 667
1074	Palix	Oct. 21-31	Either Sex	GMU 669
1075	Fall River	Oct. 21-31	Either Sex	GMU 672
1076	Nemah	Oct. 21-31	Either Sex	GMU 678

PERMANENT

*Successful applicants will be mailed a map of the hunt boundary.

DEER MUZZLELOADER ONLY

Hunters must purchase a hunting license and muzzleloader deer tag prior to submitting an application for a muzzleloader permit hunt.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1077	Blue Creek B	Nov. 22- Dec. 3	Whitetail, 3 Pt. Min. or Antlerless	GMU 154
1078	Wannacut B	Nov. 11-19	Mule Deer, Antlerless Only	GMU 209
1079	Chiliwist	Nov. 11-19	Whitetail, Either Sex	GMU 239
1080	Alta	Nov. 11-19	Mule Deer, Antlerless Only	GMU 242
1081	Moses Coulee B	Nov. 25- Dec. 17	Whitetail, Either Sex	GMU 269
1082	Manson	Nov. 11-19	Antlerless Only	GMU 300
1083	Chiwawa	Nov. 11-19	Either Sex	GMU 304
1084	Pilchuck	Dec. 2-6	Antlerless Only	Deer Area 041
1085	Yale	Nov. 22- Dec. 12	Either Sex	GMU 554

YOUTH HUNTER OPPORTUNITY

Applicants must be 16 years old or younger on opening day of the permit season. Juvenile hunters must be accompanied by an adult during the hunt.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1086	Northeast A	Oct. 14-31	Whitetail, Either Sex	GMUs 100-124
1087	Mica, Cheney	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 127, 130
1088	Davenport	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 133, 136
1089	Whitman	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 139, 142
1090	Starbuck B	Oct. 1-8	Antlerless Only	GMU 148
1091	Marengo B	Oct. 1-8	Antlerless Only	GMU 163
1092	Blue Mtns. Foothills C	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1093	Blue Mtns. Foothills D	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181
1094	Big Bend B	Oct. 14-22	Either Sex	GMU 248
1095	Toutle	Oct. 14-29	Either Sex	GMU 556
1096	Wind River	Oct. 21- Nov. 5	2 Pt. Min. or Antlerless	GMU 574
1097	Satsop	Oct. 21-31	Either Sex	GMU 651
1098	Skookumchuck B	Oct. 21-31	Either Sex	GMU 667

SENIOR HUNTER OPPORTUNITY

Applicants must be 65 years of age or older on opening day of the permit season.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1099	Northeast B	Oct. 14-31	Whitetail, Either Sex	GMUs 100-124
1100	Southcentral	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 127-142
1101	Starbuck C	Oct. 1-8	Antlerless Only	GMU 148
1102	Marengo C	Oct. 1-8	Antlerless Only	GMU 163
1103	Blue Mtns. Foothills E	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1104	Blue Mtns. Foothills F	Oct. 14-22	3 Pt. Min. or Antlerless	GMUs 145, 172, 175, 178, 181

PERMANENT

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	Permit Season	Special Restrictions	Boundary Description
1105	Roosevelt A	Nov. 22-26	Whitetail, 3 Pt. Min. or Antlerless	GMU 133
1106	Almota	Nov. 22-26	Whitetail, 3 Pt. Min. or Antlerless	GMU 142
1107	Wenatchee	Nov. 15-29	Either Sex	Portion of GMU 314*
1108	Mt. Adams	Oct. 1-12	2-Pt. Min. or Antlerless	Elk Area 059

In addition, other AHE permits are available on Private Lands Wildlife Management hunts.

*Successful applicants will be mailed a map of the hunt boundary.

SPECIAL HUNTS FOR DISABLED, BLIND OR VISUALLY IMPAIRED

Hunters must purchase a hunting license and modern firearm or muzzleloader deer tag prior to purchase of a special hunting season permit application. Only those hunters with a Washington Disabled Hunter Permit or Washington Blind or Visually Handicapped Hunter Permit may apply for these permits.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1109	Blue Mtn. Foothills G	Nov. 8-21	3 Pt. Min. or Antlerless	GMUs 148, 151, 154, 160, 161, 163, 166
1110	Douglas	Nov. 22-26	Whitetail, Either Sex	GMU 108
1111	Big Bend C	Oct. 19-24	Antlerless Only	GMU 248
1112	Entiat	Nov. 1-15	Antlerless Only	GMU 308
1113	Green River C	Oct. 21-27	Antlerless Only	GMU 485
1114	Margaret	Oct. 14-31	Antlerless Only	GMU 524
1115	Bear River	Oct. 14-31	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 approximately 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. Other applications for Wilson Creek Area must be made through the normal application process. 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 must have a valid hunting license, deer tag, and written authorization from the landowner to participate in these hunts. All other hunting regulations apply.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
*	Wilson A	Oct. 1- Dec. 31	Buck Only	PLWMA 201
1116	Wilson B	Oct. 1- Dec. 31	Buck Only, Young Hunters Only**	PLWMA 201
1117	Wilson C	Oct. 1- Dec. 31	Antlerless Only, Young Hunters Only**	PLWMA 201
1118	Wilson D	Oct. 1- Dec. 31	Antlerless Only, Disabled or Blind/Visually Handicapped Hunters Only	PLWMA 201
1119	Wilson E	Oct. 1- Dec. 31	Antlerless Only, AHE Hunters Only	PLWMA 201

* No hunt number because hunter must contact landowner, David Stevens, for access.

**Applicants must be 16 years old or younger by opening date of the permit season and must be accompanied by an adult during the hunt.

PERMANENT

Champion's Kapowsin Tree Farm

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
1120	Kapowsin North	Dec. 8-12	Antlerless Only, Senior Hunters (Age 65+)	PLWMA 401A North
1121	Kapowsin Central	Dec. 8-12	Antlerless Only	PLWMA 401B Central
1122	Kapowsin South	Dec. 9, 10, 16, 17	Antlerless Only, Young* or Disabled or Blind/ Visually Handicapped Hunters Only	PLWMA 401C South

*Applicants must be 16 years old or younger by opening date of the permit season and must be accompanied by an adult during the hunt.

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 1995 license and tag during the hunt.

MODERN FIREARM PERMIT HUNTS (Muzzleloaders may apply.)

1995 Permit quotas are unknown at this time. Permit quotas may be greater or less than permits authorized in 1994 depending on winter survival. Please do not call Department offices for permit quotas. Quotas will be established at the April Fish and Wildlife Commission meeting.

Use the FOUR DIGIT HUNT NUMBER on your application.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2001	Aladdin	Oct. 28-Nov. 5	Antlerless Only	BC or BM	GMU 111
2002	Selkirk	Oct. 28-Nov. 5	Antlerless Only	BC or BM	GMU 113
2003	Mount Spokane	Oct. 28-Nov. 5	Antlerless Only	BC or BM	GMU 124
2004	Mica, Cheney	Oct. 28-Nov. 5	Antlerless Only	BC or BM	GMUs 127, 130
2005	Blue Creek	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 154
2006	Watershed	Oct. 28-Nov. 5	3 Pt. Min. or Antlerless	BC or BM	GMU 157
2007	Touchet	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 160
2008	Eckler	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 161
2009	Tucannon	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 166
2010	Wenaha A	Oct. 1-10	Any Bull	BC or BM	GMU 169
2011	Wenaha B	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 169
2012	Mountain View A	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 172
2013	Couse	Oct. 25-Nov. 5	Any Bull	BC or BM	GMU 181
2014	Joseph/Black Butte	Oct. 25-Nov. 5	Any Bull	BC or BM	GMUs 184, 185
2015	Chelan A	Oct. 15-Nov. 1	Antlerless Only	CC or CM	GMUs 300, 301, 304, 306, 308, 316
2016	Chelan B	Oct. 15-Nov. 1	Any Bull	CC or CM	GMUs 300, 301, 306, 308, 316
2017	Naneum A	Oct. 23-25	Antlerless Only	CC or CM	GMU 328
2018	Naneum B	Oct. 26-Nov. 1	Any Bull	CC or CM	GMU 328
2019	Malaga A	Sept. 1-Oct. 6	Antlerless Only	CC or CM	Elk Area 032
2020	Malaga B	Nov. 2-Jan. 15, 1996	Antlerless Only	CC or CM	Elk Area 032
2021	Peshastin A	Sept. 1-Oct. 6	Any Bull	CC or CM	Elk Area 033

PERMANENT

2022	Peshastin B	Nov. 2- Jan. 15, 1996	Antlerless Only	CC or CM	Elk Area 033
2023	Quilomene A	Oct. 23-25	Antlerless Only	CC or CM	GMU 329
2024	Quilomene B	Oct. 26-Nov. 1	Any Bull	CC or CM	GMU 329
2025	West Bar A	Oct. 23	Antlerless Only	CC or CM	GMU 330
2026	West Bar B	Oct. 24	Antlerless Only	CC or CM	GMU 330
2027	West Bar C	Oct. 25	Antlerless Only	CC or CM	GMU 330
2028	Swauk	Oct. 25- Nov. 13	Any Bull	CC or CM YC or YM	GMUs 302, 335
2029	Taneum A	Nov. 1-4	Antlerless Only	YC or YM	GMU 336
2030	Manastash A	Nov. 1-4	Antlerless Only	YC or YM	GMU 340
2031	Shushuskin A	Nov. 23- Dec. 15	Antlerless Only	YC or YM	Elk Area 031
2032	Umtanum A	Nov. 1-4	Antlerless Only	YC or YM	GMU 342
2033	Peaches Ridge	Oct. 25- Nov. 13	Any Bull	YC or YM	GMUs 336, 346
2034	Little Naches A	Nov. 1-4	Antlerless Only	YC or YM	GMU 346
2035	Little Naches B	Oct. 1-Nov. 13	Any Bull	YC or YM	GMU 346
2036	Observatory	Nov. 5-13	Any Bull	YC or YM	GMUs 340, 342
2037	Goose Prairie A	Oct. 25- Nov. 13	Any Bull	YC or YM	GMUs 352, 356
2038	Nile	Nov. 1-4	Antlerless Only	YC or YM	GMU 352
2039	Bumping	Nov. 1-4	Antlerless Only	YC or YM	GMU 356
2040	Bethel A	Nov. 1-4	Antlerless Only	YC or YM	GMU 360
2041	Bethel B	Nov. 5-13	Any Bull	YC or YM	GMU 360
2042	Rimrock A	Nov. 1-4	Antlerless Only	YC or YM	GMU 364
2043	Rimrock B	Oct. 25- Nov. 13	Any Bull	YC or YM	GMU 364
2044	Cowiche A	Nov. 1-4	Antlerless Only	YC or YM	GMU 368
2045	Cowiche B	Nov. 5-13	Any Bull	YC or YM	GMU 368
2046	White River A	Nov. 1-13	Any Bull	WC or WM	GMU 472
2047	Green River Cow A	Nov. 11-15	Antlerless Only	WC or WM	GMU 485
2048	Green River Bull	Nov. 11-15	3 Pt. Bull Min. or Antlerless	WC or WM	GMU 485
2049	Green River Spike	Nov. 11-15	Spike or Antlerless	WC or WM	GMU 485
2050	Lincoln	Nov. 14-19	Antlerless Only	WC or WM	GMU 501
2051	Willapa Hills	Nov. 14-19	Antlerless Only	WC or WM	GMU 506
2052	Packwood	Nov. 14-19	Antlerless Only	WC or WM	GMU 516
2053	Margaret Cow	Nov. 14-19	Antlerless Only	WC or WM	GMU 524
2054	Margaret Bull	Nov. 1-13	3 Pt. Bull Min.	WC or WM	GMU 524
2055	Ryderwood	Nov. 14-19	Antlerless Only	WC or WM	GMU 530
2056	Toutle Cow	Nov. 14-19	Antlerless Only	WC or WM	GMU 556
2057	Toutle Bull	Nov. 1-13	3 Pt. Bull Min.	WC or WM	GMU 556
2058	Marble	Nov. 14-19	Antlerless Only	WC or WM	GMU 558
2059	Lewis River	Nov. 14-19	Antlerless Only	WC or WM	GMU 560
2060	Siouxon	Nov. 14-19	Antlerless Only	WC or WM	GMU 572
2061	Dickey Bull A	Oct. 1-13	3-Pt. Bull Min.	WC or WM	GMU 602
2062	Dickey Bull B	Nov. 1-13	3-Pt. Bull Min.	WC or WM	GMU 602
2063	Goodman	Nov. 14-19	Antlerless Only	WC or WM	GMU 612
2064	Matheny	Nov. 14-19	Antlerless Only	WC or WM	GMU 618
2065	Quinault Ridge	Oct. 1-13	3 Pt. Bull Min.	WC or WM	GMU 638
2066	Wynoochee	Nov. 14-19	Antlerless Only	WC or WM	GMU 648
2067	Palix	Nov. 14-19	Antlerless Only	WC or WM	GMU 669
2068	Nemah	Nov. 14-19	Antlerless Only	WC or WM	GMU 678
2069	Backbone A	Nov. 23- Dec. 13	Antlerless Only	WC or WM	Elk Area 025
2070	Backbone B	Nov. 23- Dec. 13	Any Bull	WC or WM	Elk Area 025

2071	Curtis	Dec. 20-31	Antlerless Only	WC or WM	Elk Area 050
2072	Boistfort A	Jan. 1-15, 1996	Antlerless Only	WC or WM	Elk Area 054
2073	East Valley	Jan. 1-15, 1996	Antlerless Only	WC or WM	Elk Area 055
2074	Carlton	Oct. 1-13	3 Pt. Bull Min.	WC or WM	Elk Area 057
2075	West Goat Rocks	Oct. 1-13	3 Pt. Bull Min.	WC or WM	Elk Area 058
2076	Mt. Adams	Oct. 1-13	3 Pt. Bull Min.	WC or WM	Elk Area 059
2077	South Willapa	Jan. 1-15, 1996	Antlerless Only	WC or WM	Elk Area 067

*Outside of Umatilla National Forest.

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. Hunters with any elk tag are eligible to apply for these hunts.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
2078	Shushuskin B	Dec. 16-30	Antlerless Only	Elk Area 031
2079	Margaret	Oct. 1-12	3 Pt. Min. or Antlerless	GMU 524
2080	Skookumchuck	Oct. 7-12	Either Sex	GMU 667
2081	South Bank A	Sept. 16-20	Antlerless Only	Elk Area 062
2082	South Bank B	Sept. 23-27	Antlerless Only	Elk Area 062
2083	South Bank C	Dec. 16-20	Antlerless Only	Elk Area 062
2084	South Bank D	Jan. 6-10, 1996	Antlerless Only	Elk Area 062
2085	South Bank E	Jan. 20-24, 1996	Antlerless Only	Elk Area 062

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	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2086	Blue Mountains West	Sept. 1-14	Any Bull	BA	GMUs 154, 160, 161, 166, 169
2087	Blue Mountains East	Sept. 1-14	Any Bull	BA	GMUs 178, 181, 184, 185
2088	Colockum	Sept. 1-14	Either Sex	CA	GMUs 328, 329
2089	Robinson	Sept. 1-14	Either Sex	YA	GMUs 336, 340
2090	Taneum B	Nov. 23-Dec. 8	Either Sex	YA	GMU 336
2091	Goose Prairie B	Sept. 1-14	Either Sex	YA	GMUs 352, 356
2092	Divide	Nov. 23-Dec. 8	Either Sex	YA	Bow Areas 806, 807
2093	Cottonwood	Sept. 1-14	Either Sex	YA	GMUs 364, 366, 368
2094	White River B	Sept. 1-14	Either Sex	WA	GMU 472

PERMANENT

PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

Champion's Kapowsin Tree Farm

Only hunters possessing a valid elk tag (any 1995 elk tag) and meeting the special restrictions noted for each hunt are eligible for Champion access permits on PLWMA 401. There will be approximately one to seven hunters authorized to hunt branched bulls Sept. 16-27. Applicants for Branched Bull permits must pay a nonrefundable access fee of 50 to 100 dollars. (To be determined at a later date.) Individuals not drawn for a special access permit will receive a coupon good for one regular three-day access permit.

Persons interested in applying for a Branched Bull permit should inquire at: Champion International, 31716 Camp 1 Road, Orting, Washington 98360. For more information, please call Champion at (206) 879-4200.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
2095	Kapowsin Bull A	*	Any Bull	WA, WC, WM	PLWMA 401A
2096	Kapowsin Bull B	*	Any Bull	WA, WC, WN	PLWMA 401B, 401C

*Permit season for archery tag holders Sept. 1-14; modern firearm Nov. 1-13; and Muzzleloader Nov. 22-Dec. 5

Muzzleloader Elk Permits

Hunters must purchase a hunting license and Western Washington Muzzleloader Elk Tag prior to purchase of a special hunting season permit application for these hunts.

Hunt No.	Hunt Name	Permit Season	Special Restrictions	Boundary Description
2097	Kapowsin North	Nov. 22-Dec. 5	Antlerless Only	PLWMA 401A
2098	Kapowsin Central	Nov. 22-Dec. 5	Antlerless Only	PLWMA 401B
2099	Kapowsin South	Nov. 22-Dec. 5	Antlerless Only	PLWMA 401C

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	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
3001	Naches D	Oct. 1-13	Antlerless Only	YC or YM	GMU 346
3002	Quilomene C	Nov. 1-13	Antlerless Only	CC or CM	GMU 329
3003	Manastash B	Nov. 1-13	Antlerless Only	YC or YM	GMU 340
3004	Green River Cow B	Nov. 11-15	Antlerless Only	WC or WM	GMU 485
3005	Centralia Mine A	Nov. 18-19	Antlerless Only	Any Elk Tag	Portion of GMU 667*
3006	Centralia Mine B	Nov. 25-26	Antlerless Only	Any Elk Tag	Portion of GMU 667*
3007	Centralia Mine C	Dec. 2-3	Either Sex	Any Elk Tag	Portion of GMU 667*

*Successful applicants will be mailed a map of the hunt boundary.

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	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
4001	Mountain View B	Oct. 5-11	Spike Bull or Antlerless	BM	GMU 172
4002	Mountain View C	Oct. 5-11	Any Bull	BM	GMU 172
4003	Mission	Oct. 5-11	Any Bull	CM	GMU 314
4004	Cle Elum A	Oct. 1-12	Either Sex	YM	ML Area 910
4005	Cle Elum B	Nov. 16-Dec. 8	Either Sex	YM	ML Area 910
4006	Umtanum B	Oct. 8-12	Either Sex	YM	GMU 342
4007	Cowiche C	Oct. 8-12	Either Sex	YM	GMU 368

4008	Stella	Nov. 22- Dec. 12	Either Sex	WM	GMU 504
4009	Boistfort B	Jan. 16- 31, 1996	Antlerless Only	WM	Elk Area 054
4010	Yale	Nov. 22- Dec. 12	Either Sex	WM	GMU 554
4011	Toledo	Jan. 2-16, 1996	Antlerless Only	WM	Elk Area 029
4012	Chinook	Jan. 16- Feb. 15, 1996	Antlerless Only	WM	Elk Area 069
4013	North River	Nov. 18- Dec. 6	Antlerless Only	WM	GMU 658
4014	Elwha	Dec. 15- Jan. 15, 1996	Antlerless Only	WM	ML Area 962
4015	South Elma	Oct. 1-13	Antlerless Only	WM	Elk Area 063

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 95-03-037
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-149—Filed January 10, 1995, 1:33 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To adopt WAC 232-28-247 1995 Bighorn sheep auction permit.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-103 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-247 1995 Bighorn sheep auction permit

AUCTIONING OF PERMIT

The Director will select a conservation organization to conduct the 1995 bighorn auction. Selection of the conservation organization will be based on criteria developed by the Washington Department of Fish and Wildlife. The organization shall notify the Department of the name and address of the successful bidder within ten days of the auction.

AUCTION PERMIT HUNT

SPECIES - MOUNTAIN SHEEP (BIGHORN SHEEP)

Hunting Season Dates: September 1 - October 31, 1995.

Hunt Area: Anywhere in eastern Washington, south of Interstate 90.

Bag Limit: 1 Bighorn Ram

AUCTION HUNT PERMITTEE RULES

(1) Permittee shall contact the appropriate regional office of the Department of Fish and Wildlife when entering the designated hunt area.

(2) The permittee may be accompanied by others; however, only the permittee is allowed to carry a firearm and harvest an animal.

(3) Any attempt by members of the permittee's party to herd or drive wildlife is prohibited.

(4) If requested by the Department, the permittee is required to accompany Department officials to the site of the kill.

(5) The permittee will present the head and carcass of the bighorn sheep killed to any Department office within 72 hours of date of kill.

**WSR 95-03-038
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-150—Filed January 10, 1995, 1:36 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To adopt WAC 232-28-248 1995-96 Special closures and firearm restriction areas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-104 on November 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-248 differs from the version filed with the code reviser in the following specifics:

1. On page 5, under Kitsap Firearm Restriction area, replace the road "North Lake Way" with "Newbury Hill Road" on lines 2 and 3.

Effective Date of Rule: Thirty-one days after filing.

December 21, 1994

John C. McGlenn
Chairman

NEW SECTION**WAC 232-28-248 1995-96 Special closures and firearm restriction areas****SPECIAL CLOSURES****HUNTING PROHIBITED AREAS**

IT IS UNLAWFUL TO HUNT WILD ANIMALS (INCLUDING WILD BIRDS) IN THE FOLLOWING AREAS:

1. Little Pend Oreille National Wildlife Refuge: The southern part of the Little Pend Oreille National Wildlife Refuge in Stevens County is closed to hunting and discharge of firearms except during the period of Oct. 1-Dec. 31, 1995. This closure is south of a boundary beginning at the west project boundary in Section 3, Township 34 N, R 40 EWM, then easterly along Road 1.0 to the intersection with Road 2.0 in Section 2, then easterly along Road 2.0 to the easterly boundary in Section 8, Township 34 N, R 42 EWM.

The Little Pend Oreille National Wildlife Refuge north of the preceding boundary is open to all legally established hunting seasons during September through December.

2. Parker Lake: All lands south of Ruby Creek Road (USFS Road 2489), north of Tacoma Creek Road (USFS Road 2389) and west of Bonneville Power Administration power lines are designated as "CLOSED AREA" to the hunting of wild animals and wild birds EXCEPT during the period Aug. 1-Sept. 30, 1995. Both the Little Pend Oreille (1) and Parker Lake (2) closures were established to provide a protected area for the Air Force Military Survival Training Program.
3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.
4. Green River (GMU 485): Except for special permit hunts, all lands within GMU 485 are designated as a "CLOSED AREA" to the hunting of big game by Department of Fish and Wildlife regulated hunters throughout the year. During the general westside elk season and general and late deer seasons, all lands within GMU 485 are also designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds). The City of Tacoma enforces trespass within GMU 485 on lands owned or controlled by the City during all times of the year.
5. McNeil Island: McNeil Island (part of GMU 480) is closed to the hunting of all wild animals (including wild birds) year around.
6. As posted on Bailey Youth Ranch, Franklin County, hunting is closed on Mondays, Tuesdays, Thursdays, and Fridays.

7. As posted, hunting is closed on Department owned land on the Sunnyside Wildlife Area in Yakima County.

BIG GAME CLOSURES

1. Cathlamet: Beginning in the town of Skamokawa; then east along SR 4 to the Risk Road; then south and east along the Risk Road to Foster Road; then south along the Foster Road to the Elochoman River; then upstream along the Elochoman River to the Elochoman Valley Road (old SR 407); then west along the Elochoman Valley Road to SR 4; then east along SR 4 to SR 409; then south along SR 409 to the Cathlamet Channel of the Columbia River; then east along the north shore of the Cathlamet Channel to Cape Horn; then south in the Columbia River to the state line; then west along the state line to a point directly south of the mouth of Skamokawa Creek; then north on Skamokawa Creek to SR 4 and the point of beginning. This closure is established to protect the Columbian Whitetail Deer.
2. Clark, Cowlitz, Pacific, and Wahkiakum counties are closed to Columbian Whitetail Deer hunting.
3. Willapa National Wildlife Refuge: Except for Bow Area No. 802 (Long Island), Willapa National Wildlife Refuge is closed to all big game hunting.
4. Walla Walla Mill Creek Watershed (GMU 157): All lands in the Mill Creek Watershed are designated as a "CLOSED AREA" to the hunting of all wild animals (including wild birds) except for holders of special elk permits during the established open season. This area is closed to motorized vehicles.
5. Colockum elk hunting restrictions: No entry in GMU 330 (West Bar) except permit holders, October 23-25, 1995. Closed to entry (no trespassing) October 26-November 7, 1995.
6. Westport: Closed to hunting of all big game animals on that part of Westport Peninsula lying north of State Highway 105 from the west end of the Elk River Bridge and the Schafer Island Road to the ocean beach.
7. Baleville: Closed to hunting of all big game animals on those lands between State Highway 105 and the Willapa River west of Raymond.

UPLAND BIRD CLOSURES

It is unlawful to hunt game birds on the Columbia River or from any island in the Columbia River in the following areas:

1. From the mouth of Glade Creek (River Marker 57) to the old townsite of Paterson (River Marker 67) in Benton County, except the hunting of game birds is permitted from the main shoreline of the Columbia River in this area. (Check with Umatilla National Wildlife Refuge for other federal regulations for this area.)
2. Between the public boat launch at Sunland Estates in Grant County (Wanapum Pool) and a point perpendicular in Kittitas County; upstream to the posted marker 200 yards north of Quilomene Bay and a point perpendicular in Grant County, including islands.

3. Columbia River and all the islands in the river, and the Benton County shoreline below the high water mark, and any peninsula originating on the Benton County shoreline, between Vernita Bridge (Highway 24) downstream to the old Hanford townsite powerline crossing (wooden towers) in Section 24, T 13 N, R 27 E, is designated as a "CLOSED AREA" to the hunting of wild animals and wild birds.

HORSE RESTRICTIONS

Colockum horse restrictions: GMU 330 (West Bar)—It is unlawful to ride horses, mules, or other livestock during any open elk season in GMU 330 PROVIDED, however, that livestock may be used for transporting camp gear and elk carcasses. GMU 329 (Quilomene)—It is unlawful to allow a horse to enter the Brushy and Cape Horn agricultural fields prior to 9 a.m. from October 23-November 3, 1995.

HUNTING FIREARM RESTRICTION AREAS

In firearm restriction areas, handguns, centerfire and rimfire rifles are not legal for hunting except as provided below. Hunters may hunt only during the season allowed by their tag. Archery tag holders may hunt during archery seasons with archery equipment. Muzzleloaders may hunt during muzzleloader seasons with muzzleloader equipment except in the GMU 484 restriction area outlined for King County. Modern firearm tag holders may hunt during modern firearm seasons with bows and arrows, muzzleloaders or shotguns firing slugs or legal buckshot. Shotguns are not legal for hunting elk.

COUNTY	AREA
Clallam	That portion of GMU 624 (Coyle) located within Clallam County.
Clark	GMU 564 (Battleground)
Cowlitz	GMU 554 (Yale) GMU 504 (Stella)
Franklin, Grant, Adams	Those portions of GMU 281 (Ringold) and GMU 278 (Wahluke) known as the Wahluke Slope Wildlife Area.
Grays Harbor	That portion of GMU 658 (North River) beginning at Bay City; then west along Highway 105 to Twin Harbors State Park; then south along Highway 105 to Grayland Grocery; then east on Cranberry Road to Turkey Road; then east and north on Turkey Road to Bayview Logging Road; then north and east along Bayview Logging Road to Mallard Slough; then east and south along the Bayview Road to Andrews Creek; then north along main channel of Andrews Creek to Grays Harbor; then north and west along the main

navigation channel to Bay City and point of beginning.

The South Bank restriction applies only during elk seasons:

(South Bank) - That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on South Bank Road to the Delezene Road; then south on the Delezene Road to a point one mile from the South Bank Road; then southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning.

That portion of GMU 410 (Island) located on Camano and Whidbey islands.

Indian and Marrowstone islands.

The area west of Highway 203 (Monroe-Fall City-Preston) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands.

The following portion of GMU 484 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.)

Island

Jefferson

King

Kitsap

PERMANENT

Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.

Effective Date of Rule: Thirty-one days after filing.
December 21, 1994
John C. McGlenn
Chairman

- Kittitas GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
- Mason GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
- Pacific GMU 684 (Long Beach) west of Sand Ridge Road.
- Pierce GMU 480 (Anderson and Ketron islands) limited to archery, shotgun, and muzzleloader shotgun. McNeil Island closed to hunting.
See GMU 484 restriction area outlined for King County.
GMU 627 (Kitsap) south of Highway 302 on the Longbranch Peninsula is a firearm restriction area.
- Snohomish West of Highway 9.
- Skagit Guemes Island and March Point north of State Highway 20.
- Thurston GMU 666 (Deschutes) north of U.S. Highway 101 and Interstate 5 between Oyster Bay and the mouth of the Nisqually River.
- Whatcom Area west of I-5 and north of Bellingham city limits including Point Roberts.

NEW SECTION

WAC 232-28-249 1995-96 Special species hunting seasons and regulations

PERMIT APPLICATION INSTRUCTIONS

You must have a valid 1995 Washington hunting license to apply for any special hunting season permit.

Application Deadline: Applications must be postmarked no later than March 31, 1995, or received not later than 5:00 p.m., March 31, 1995, at the Washington Department of Fish and Wildlife, 600 Capitol Way North, Olympia, WA 98501-1091, or any Department of Fish and Wildlife regional office.

Computer Drawing: Drawings for goat, bighorn sheep, moose, and cougar will be done by computer selection. All applicants will be notified by May 31, 1995.

Disqualification: Anyone who submits more than one application for each species will be disqualified for drawings for that species.

Incomplete Applications: To be eligible for the permit drawing, applications must contain hunt number and hunt name, date of birth, and hunting license number. Applicant's complete name and address including zip code must be included.

Permit Hunting Report: A hunter questionnaire report will be sent to each permittee. This questionnaire must be returned to the Department of Fish and Wildlife within ten days after the close of the hunting season.

PERMIT QUOTAS: 1995 Permit quotas are unknown at this time. Permit quotas for 1995 may be greater or less than last year depending on winter survival. Please do not call Department offices for permit quotas; they will be established at the April Commission meeting.

MOOSE

Permit Season: Oct. 1 to Nov. 30, 1995, both dates inclusive.

Who May Apply: Anyone with a valid 1995 Washington hunting license. Only one moose permit will be issued during an individual's lifetime.

Bag Limit: One moose of either sex.

- Moose Unit 1
GMU 113
- Moose Unit 2
GMU 124
- Moose Unit 3
GMU 118
- Moose Unit 4
GMU 119
- Moose Unit 5

**WSR 95-03-039
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-151—Filed January 10, 1995, 1:38 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To adopt WAC 232-28-249 1995-96 Special species hunting seasons and regulations.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-105 on November 2, 1994.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-249 differs from the proposed version filed with the code reviser in the following specifics:

1. On page 4, Goat Unit 4-24 (Sloan Peak) was deleted.
2. On page 5, Goat Unit 4-21 (Liberty Mountain) was deleted.
3. On page 5, under Cougar General Permit Season the dates for Cougar Unit 6 hunt was extended to Feb. 28, 1996. The second sentence now reads: "Nov. 22, 1995-Jan. 31, 1996, EXCEPT Nov. 22, 1995-Feb. 28, 1996 in Cougar Units 5 and 6."

PERMANENT

GMU 111

MOUNTAIN SHEEP (BIGHORN)

Permit Seasons: Separate seasons are indicated for each bighorn sheep hunt.

Who May Apply: Anyone with a valid 1995 Washington hunting license; EXCEPT those who drew a bighorn permit during 1990, 1991, 1992, 1993, or 1994, or have been successful in taking a bighorn in Washington State.

Bag Limit For Permit Holders: One bighorn ram.

Any Legal Weapon

Sheep Unit 2

Vulcan Mountain

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

Sheep Unit 3

Tucannon River

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

Sheep Unit 5

Umtanum

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

Sheep Unit 8

Mountainview

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

Sheep Unit 9

Blackbutte

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

Sheep Unit 10

Mt. Hull

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

Sheep Unit 11

Wenaha Wilderness

Permit Season: Sept. 15-Oct. 13, both dates inclusive.

MOUNTAIN GOAT:

Permit Season: Sept. 16-Oct. 31, 1995, both dates inclusive, in all goat hunts.

Who May Apply: Anyone with a valid 1995 Washington hunting license; EXCEPT those who drew goat permits in 1990, 1991, 1992, 1993, or 1994.

Bag Limit: One (1) adult goat of either sex with horns four (4) inches or longer. The Department of Fish and Wildlife urges hunters to refrain from shooting nannies with kids.

Any Legal Weapon

Goat Unit 2-1

Mount Chopaka

Goat Unit 2-2

Methow

Goat Unit 3-2

North Wenatchee Mountains

Goat Unit 3-4

Snoqualmie

Goat Unit 3-6

Naches Pass

Goat Unit 3-7

Bumping River

Goat Unit 3-9

Tieton River

Goat Unit 4-1

Ruth Creek

Goat Unit 4-3

Chowder Ridge

Goat Unit 4-4

Lincoln Peak

Goat Unit 4-7

Avalanche Gorge

Goat Unit 4-8

East Ross Lake

Goat Unit 4-9

Jack Mountain

Goat Unit 4-32

Foss River

Goat Unit 4-34

Pratt River

Goat Unit 5-2

Tatoosh

Goat Unit 5-4

Goat Rocks

Muzzleloading Goat Hunts

Goat Unit 3-5

Cle Elum

Goat Unit 3-8

Bumping River

Archery Goat Hunts

Goat Unit 3-3

Goat and Davis Mountains

Goat Unit 4-38

Corral Pass

Goat Unit 5-3

Smith Creek

Goat Unit 6-2

Quilcene River

Goat Unit 6-3

Hamma Hamma River

NATIVE CATS

A valid hunting license is required to hunt (including pursuit seasons) native cats. A hound stamp is required for all hunters if dogs are used to hunt any native cats.

COUGAR

Pursuit-Only Season (Cougar may not be killed or injured.): Sept. 1-30 and Nov. 22, 1995-Jan. 31, 1996, in the cougar units listed below, EXCEPT closed to hound hunting in Walla Walla and Columbia counties outside of Umatilla National Forest Sept. 1-Oct. 13, 1995.

Early Permit Season (Permit required. Permit holders may not kill cougar with the use of hounds during the early cougar permit season.): Oct. 14-Nov. 21.

General Permit Season (Permit required. Cougar may be killed by permit holders only.): Nov. 22, 1995-Jan. 31, 1996, EXCEPT Nov. 22, 1995-Feb. 28, 1996 in Cougar Units 5 and 6.

Who May Apply: Anyone with a valid 1995 Washington hunting license may submit one special permit application for cougar; EXCEPT those who drew a cougar permit in 1994. Successful cougar applicants must purchase a cougar tag by October 1, 1995. Special permits assigned to those hunters failing to purchase a cougar tag by the deadline will be voided and cougar permits will be issued to other applicants. Cougar permit applicants successfully drawing a 1995-96 cougar permit will be ineligible to apply for a cougar permit until the 1998-99 season.

Bag Limit: One (1) cougar during the 1995-96 hunting season except that it is unlawful to kill or possess spotted cougar kittens or adult cougar accompanied by spotted kittens.

Hunt No.	Unit	Description
9001	1	Pend Oreille
9002	2	Colville
9003	3	Republic
9004	4	Spokane
9005	5	Blue Mountains
9006	6	Wenaha
9007	7	Okanogan
9008	8	Chelan
9009	9	Yakima
9010	10	Nooksack
9011	11	Skagit
9012	12	Snoqualmie
9013	13	North Olympic Peninsula
9014	14	South Olympic Peninsula
9015	15	Rainier
9016	16	South Puget Sound
9017	17	Cowlitz
9018	18	Skamania
9019	19	Pacific

Boot hunting opportunity for cougar: Hunters have to specifically apply (by hunt number) for either an early permit season tag or a general permit season tag. The early permit season is a boot only opportunity.

Hunt No.	Unit	Description
9020	1	Pend Oreille
9021	2	Colville
9022	3	Republic
9023	4	Spokane
9024	5	Blue Mountains
9025	6	Wenaha
9026	7	Okanogan
9027	8	Chelan
9028	9	Yakima
9029	10	Nooksack
9030	11	Skagit

9031	12	Snoqualmie
9032	13	North Olympic Peninsula
9033	14	South Olympic Peninsula
9034	15	Rainier
9035	16	South Puget Sound
9036	17	Cowlitz
9037	18	Skamania
9038	19	Pacific

LYNX

Season closed statewide.

**WSR 95-03-040
PERMANENT RULES
FISH AND WILDLIFE
COMMISSION**

[Order 94-155—Filed January 10, 1995, 1:40 p.m.]

Date of Adoption: December 9-10, 1994.

Purpose: To amend WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions.

Citation of Existing Rules Affected by this Order: Amending WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 94-22-106 on November 2, 1994.

Effective Date of Rule: Thirty-one days after filing, December 21, 1994
John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 646, filed 5/10/94)]

WAC 232-28-02220 Game management units (GMUs)—Special game areas—Boundary descriptions—Elk area descriptions.

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

Elk Area No. 002 Caribou (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction at the USFS 3517 Road; then east and south along USFS 3517 Road and Lillard Hill Road to the Bonneville Powerlines; then east

PERMANENT

along the Bonneville Powerlines to the Colockum Pass-Brushy Road (cattle guard); then east along the Brushy Road to the Crossover Road; then south along the Crossover Road to the Perkins/Caribou junction; then east along the Perkins Road to the Beacon Ridge Road; then south along the Beacon Ridge Road to the Old Vantage Highway; then south along a county service road to Interstate 90; then west along Interstate 90 to the Highline Canal near the Stevens Road; then northwest along the Highline Canal to the point of beginning. (See Department of Fish and Wildlife map)

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

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

Elk Area No. 010 South Spokane (Spokane County) the following portion of game management units 127 and 130: Beginning at Tyler near the junction of Tyler Road (State Highway 904) and I-90; then northeast along I-90 to the Idaho state line; then south along the Washington-Idaho line to Elder Road; then west along Elder Road to Hangman Creek; then north along Hangman Creek to State Highway 195 at Hatch Road; then south along State Highway 195 to the Cheney Spangle Road; then west along the Cheney Spangle Road to Cheney; then west along Tyler Road (State Highway 904) to the point of beginning. (See Washington Atlas & Gazetteer)

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

Elk Area No. 029 Toledo (Lewis and Cowlitz counties): Beginning at Interstate 5 and State Highway 505 junction; then east along State Highway 505 through the City of Toledo to the Layton Road; then north along the Layton Road to the Evans Road; then east along the Evans Road to

the Weyerhaeuser 1800 line to the Weyerhaeuser 1890 line to State Highway 504; then west along State Highway 504 to the Tower Road; then west on Tower Road to the junction of Tower Road and State Highway 504; then west on State Highway 504 to Interstate 5; then north on Interstate 5 to the junction with State Highway 505 and point of beginning. (See Washington Atlas & Gazetteer)

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

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

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

Elk Area No. 033 Peshastin (Chelan County): Beginning at Crawford Street and the Columbia River in Wenatchee; then west on Crawford Street and Number Two Canyon Road to USFS 7101 Road (Peavine Canyon); then west on USFS 7101 Road to Mission Creek Road; then north on Mission Creek Road to USFS 7104 Road (Sand Creek); then west on USFS 7104 Road (Sand Creek) to Camas Creek; then west up Camas Creek to where Camas Creek crosses USFS 7200 Road, T22N, R18E, Section 4; then north along USFS 7200 Road to U.S. Highway 97; then north on U.S.

Highway 97 to USFS 7300 Road (Mountain Home Road); then north on the USFS 7300 Road to the Wenatchee River at Leavenworth; then down the Wenatchee River and Columbia River to the point of beginning. (See Washington Atlas & Gazetteer)

Elk Area No. 034 Parke Creek (Kittitas County): Beginning at the Highline Canal on Parke Creek Road; then north to the BPA Powerlines; then west along BPA Powerlines (through Sections 22, 16, 8, 5, and 6) to the Cook Canyon Road; then north on Cook Canyon Road to Bonneville Powerlines (Section 19); then west along Bonneville Powerlines to Wilson Creek Road; then south on the Wilson Creek Road to the Highline Canal; then southeast along the Highline Canal to point of beginning. (See Department of Fish and Wildlife map)

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

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

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

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

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

Elk Area No. 054 Boistfort (Lewis County): Beginning at the Town of Vader; then west along State Highway 506 to

the Wildwood Road; then north along the Wildwood Road to the Abernathy 500 line gate (Section 20, T11N, R3W, Willamette Meridian); then northwest along the 500, 540, and 560 lines to the Weyerhaeuser 813 line; then northwest along the 813, 812, 5000J, 5000 and 4000 lines to the Pe Ell/McDonald Road (Section 15, T12N, R4W); then west along the Pe Ell/McDonald Road to the Lost Valley Road; then northeast along the Lost Valley Road to the Boistfort Road; then north along the Boistfort Road to the King Road; then east along the King Road to the town of Winlock and State Highway 603; then south along Highway 603 to the Winlock/Vader Road; then south along said road to the Town of Vader and the point of beginning. (See Washington Atlas & Gazetteer)

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

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

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

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

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

Elk Area No. 062 South Bank (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on the South Bank Road to the Delezene Road; then south on the Delezene Road to the K Line Road to the A Line Road; then south on the A Line Road to the T Line Road; then south on the T Line Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning. (Contact Montesano Office for map of the area.)

Elk Area No. 063 South Elma (Grays Harbor County): That portion of GMU 660 (Minot Peak) described as follows: Beginning at Highway 12 and Wakefield Road Junction (South Elma); south on Wakefield Road, across the Chehalis River to the South Bank Road; then southeast on

the South Bank Road to Delezene Road; then south on the Delezene Road to a point one mile from the South Bank Road; then southeast along a line one mile southwest of the South Bank Road to the Oakville-Brooklyn Road; then east on the Oakville-Brooklyn Road to Oakville and Highway 12; then northwest on Highway 12 to Wakefield Road to Elma and the point of beginning. (Contact Montesano Office for map of area.)

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

Elk Area No. 066 Twin Valley (Grays Harbor County): Beginning in the City of Hoquiam at the junction of U.S. Highway 101 and the East Hoquiam Road; then north on the East Hoquiam Road to its junction with the East Hoquiam-Wishkaw Cutoff Road in Section 21, T19N, R9 W.W.M.; then east on the East Hoquiam-Wishkaw Cutoff Road to its junction with the Wishkah Road; then south on the Wishkah Road to its junction with the Wishkah-Wynoochee Crossover Road in Section 35, T19N, R9 W.W.M.; then east on the Wishkah-Wynoochee Crossover Road to its junction with the Donovan Corkery A line; then north on the A line to its junction with the A 2200; then east on the A 2200 Road to its junction with the A 2210; then south on the A 2210 Road to a point crossed by the township line between T20N and R19N; then east on the township line to its junction with the Wynoochee River Road; then south along the Wynoochee River Road to U.S. Highway No. 12; then west along U.S. Highway 12 to its junction with U.S. Highway No. 101 in the City of Aberdeen; then west on U.S. Highway 101 to the City of Hoquiam and junction with the East Hoquiam Road and the point of beginning. (See Weyerhaeuser Clemons Tree Farm Hunting map)

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

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

Washington Atlas & Gazetteer and Forest Protection Hunting map "Willapa Hills")

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

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

WSR 95-03-046
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
 (Public Assistance)

[Order 3822—Filed January 11, 1995, 10:55 a.m.]

Date of Adoption: January 11, 1995.

Purpose: Updates the benefits amount of supplemental security income (SSI) to reflect the federal cost of living adjustment amount (COLA), a 2.8% increase which goes into effect on January 1, 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 388-250-1700 Standards of assistance—Supplemental security income.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 45 CFR 233.20 (a)(2)(vi).

Pursuant to notice filed as WSR 94-24-018 on November 29, 1994.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1995

Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3750, filed 7/7/94, effective 8/7/94)

WAC 388-250-1700 Standards of assistance—Supplemental security income. Effective ~~((July 1, 1994))~~ **January 1, 1995**, 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).

	Federal SSI Standard	State Benefit Supplement
Area I: King, Pierce, Snohomish, Thurston, and Kitsap Counties		
Individual	((\$474.00 — \$446.00)) \$486.00	\$458.00
Individual with one essential person	((\$691.00 — \$669.00)) 709.00	687.00
Couple:		
Both eligible	((\$691.00 — \$669.00)) 709.00	687.00
Includes one essential person	((\$691.00 — \$669.00)) 709.00	687.00
Includes ineligible spouse	((\$614.20 — \$446.00)) 626.20	458.00
Area II: All Counties Other Than the Above		
Individual	((\$453.55 — \$446.00)) \$465.55	458.00
Individual with one essential person	((\$669.00 — \$669.00)) 687.00	687.00

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Couple:		
Both eligible	((669.00 - 669.00)) 687.00 687.00	0
Includes one essential person	((669.00 - 669.00)) 687.00 687.00	0
Includes ineligible spouse	((584.25 - 446.00)) 596.25 458.00	138.25

Areas I and II:

Eligible individual with more than one essential persons: ~~((6446))~~ \$458 for eligible individual plus ~~((223))~~ \$229 for each essential person (no state supplement).

Eligible couple with one or more essential persons: ~~((669))~~ \$687 for eligible couple plus ~~((223))~~ \$229 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)) \$311.15	\$297.34 \$305.34	\$ 5.81
Individual with one essential person	((452.30 - 446.00)) 464.30	446.00 458.00	6.30
Couple:			
Both eligible	((452.30 - 446.00)) 464.30	446.00 458.00	6.30
Includes one essential person	((452.30 - 446.00)) 464.30	446.00 458.00	6.30
Includes ineligible spouse	((401.10 - 297.34)) 409.10	297.34 305.34	103.76

Area I and II:

Eligible individual with more than one essential person: ~~((297.34))~~ \$305.34 for eligible individual plus ~~((148.67))~~ \$152.66 for each essential person (no state supplement).

Eligible couple with one or more essential person: ~~((446))~~ \$458 for eligible couple plus ~~((148.67))~~ \$152.66 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 95-03-047
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3823—Filed January 11, 1995, 10:58 a.m.]

Date of Adoption: January 11, 1995.

Purpose: Increases the time (60 days) a JOBS participant can access transitional supportive services; removes one-time work-related expenses as a service under other supportive services; and places these expenses in a new stand-alone section to bring the state into compliance with federal regulations. New WAC 388-51-220 One-time work-related expenses.

Citation of Existing Rules Affected by this Order: Amending WAC 388-51-210 Supportive services and 388-51-250 Transitional supportive services.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 45 CFR 255.2 (c)(2)(i) and (3)(i).

Pursuant to notice filed as WSR 94-24-061 on December 5, 1994.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1995

Dewey Brock, Chief

Office of Vendor Services

AMENDATORY SECTION (Amending Order 3566, filed 5/27/93, effective 7/1/93)

WAC 388-51-210 ((Other) Supportive services. The department ~~((and the JOBS contractor))~~ may provide other supportive services payment or reimbursement for ~~((other))~~ supportive services expenses enabling a person to participate in the JOBS program.

(1) The department shall ensure expenditures for a participant's supportive services ~~((shall be))~~ are subject to the maximum limits as ~~((indicated))~~ listed in the state's supportive services plan.

(2) The department shall determine supportive services ~~((shall be as outlined))~~ are as listed in the JOBS supportive services state plan ~~((and shall))~~.

(3) The department shall ensure supportive services, include, but are not ~~((be))~~ limited to:

- (a) Transportation costs;
- (b) Tools and equipment;
- (c) License fees, including union initiation fees and licenses required by law, employer, or union for participation in JOBS or employment ~~((and~~

~~((d) One-time work-related expenses necessary for a participant to accept or maintain employment. These expenses shall be allowed only when:~~

- ~~((i) The participant has a bona fide job expected to last thirty days or more;~~
- ~~((ii) Other funds are not available; and~~
- ~~((iii) Such expenses are required for the type of work)).~~

NEW SECTION

WAC 388-51-220 One-time work-related expenses. The department may provide one-time work-related expenses payment or reimbursement for applicants and recipients of AFDC enabling them to accept or maintain employment.

(1) The department shall ensure work-related expenses are subject to the maximum limits as listed in the JOBS supportive services state plan.

(2) The department shall ensure work-related expenses are listed in the JOBS supportive services state plan and include, but, are not limited to:

- (a) Transportation costs;
 - (b) Relocation expenses; and
 - (c) Tools and equipment.
- (3) The department shall only allow these expenses when:

- (a) The person has a bona fide job expected to last thirty days or more;
- (b) Other funds are not available; and
- (c) Such expenses are required for the type or work.

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AMENDATORY SECTION (Amending Order 3566, filed 5/27/93, effective 7/1/93)

WAC 388-51-250 Transitional supportive services.
The department ~~((or the contractor))~~ may provide transitional supportive services, as ~~((outlined))~~ listed in the JOBS supportive services state plan, to a JOBS participant who loses eligibility for AFDC.

(1) The department may provide services ((provided within thirty)) up to ninety days following AFDC termination to enable a participant to continue a component activity started while on assistance. The department shall ensure services include, but are not limited to transportation((~~one-time work-related expenses, and social services; and~~)) costs.

(2) The department may provide supportive counseling services for job retention ((may be provided for)) up to ninety days following AFDC termination for a former JOBS participant.

**WSR 95-03-048
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3824—Filed January 11, 1995, 10:59 a.m.]

Date of Adoption: January 11, 1995.

Purpose: Clarifies that recipients who are found ineligible for AFDC solely due to receipt of a lump sum can apply for GAU and have eligibility determined based on GAU income and resource criteria.

Citation of Existing Rules Affected by this Order: Amending WAC 388-235-9000 Benefits from other programs.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: Bordner vs. Rahm #84-2-00435-2.

Pursuant to notice filed as WSR 94-24-059 on December 5, 1994.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1995
Dewey Brock, Chief
Office of Vendor Services

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

WAC 388-235-9000 Benefits from other programs.

(1) The department shall deny a request~~((s))~~ for, or terminate, general assistance-unemployable (GAU) to a person:

~~((1))~~ (a) Eligible for or receiving aid to families with dependent children (AFDC);

~~((2))~~ (b) Eligible for or whose needs are met by SSI, except as provided under WAC 388-235-9300;

~~((3))~~ (c) Under sanction for failure to comply with AFDC or supplemental security income (SSI) requirements;

~~((4))~~ (d) Failing or refusing to cooperate without good cause in obtaining AFDC or SSI;

~~((5))~~ (e) Unemployable due to alcohol or drug addiction. The department shall refer such person ((shall be referred)) to the alcoholism and drug addiction treatment and support program.

(2) If otherwise eligible, the department shall not deny requests for GAU to a person found ineligible for AFDC, as described under WAC 388-215-1820.

**WSR 95-03-049
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)**

[Order 3825—Filed January 11, 1995, 11:02 a.m.]

Date of Adoption: January 11, 1995.

Purpose: Telecommunications Relay Service (TRS) Advisory Committee recommends that teletype (TTY) equipment be made available to hearing parents of infants who are deaf, hard of hearing, and deaf-blind. Allows parents to make direct TTY contact with other parents who are themselves deaf, hard of hearing, or deaf-blind. Allows telecommunications access service (TAS) to adjust means test criteria for equipment distribution program once a year when federal poverty levels are updated/published. Establishes criteria for nonprofit agencies. New WAC 388-43-130 Uses for returned equipment.

Citation of Existing Rules Affected by this Order: Amending WAC 388-43-010 Eligibility requirements and 388-43-020 Approval of application for initial device or request for replacement device.

Statutory Authority for Adoption: RCW 43.20A.725 and 43.20A.730.

Pursuant to notice filed as WSR 94-24-009 on November 28, 1994.

Effective Date of Rule: Thirty-one days after filing.

January 11, 1995
Dewey Brock, Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3691, filed 12/30/93, effective 1/30/94)

WAC 388-43-010 Eligibility requirements. (1) An eligible applicant shall:

(a) Be hearing or speech disabled or deaf-blind; and

(b) Be a resident of Washington state; and

(c) Be at least school age as defined under WAC 388-43-005(15); ~~((and))~~ or

(d) Be the parent/guardian applying on behalf of a child four years of age or younger who has been certified in writing, as specified under subsection (2)(a) through (f) of this section; and

(e) Meet total annual family income and family size requirements as set forth under section 020 of this chapter.

(2) An eligible applicant shall be certified in writing as hearing disabled, speech disabled, or deaf-blind by one of the following:

(a) A person licensed to practice medicine in the state of Washington;

(b) An audiologist in Washington as specified under WAC 388-43-005;

(c) A vocational rehabilitation counselor in a local division of vocational rehabilitation office;

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(d) A deaf specialist or coordinator at one of the community service centers for the deaf and hard of hearing in the state((-));

(e) A deaf-blind specialist or coordinator at Helen Keller regional office, Washington deaf-blind service center, or an eye specialist; or

(f) A certified speech pathologist practicing in the state of Washington.

(3) TAS may require additional documentation to determine if the applicant meets the eligibility requirements under sections 010 and 020 of this chapter.

(4) At the time an applicant applies for equipment, the applicant shall provide the department information on family income and family size.

(5) At the time an applicant applies for equipment, the department shall notify the applicant of the legal consequences if the applicant provides false information.

(6) The department shall ensure an eligible organization meets the following criteria:

(a) The organization must provide a copy of the certificate of incorporation as a nonprofit organization and its bylaws, to indicate that the intent of the organization is to represent the hearing or speech disabled or deaf-blind persons statewide;

(b) The organization must have represented hearing or speech disabled or deaf-blind persons statewide in the last three years; and

(c) The organization must have a telephone number which is either listed or available through statewide publicity for the hearing disabled.

AMENDATORY SECTION (Amending Order 3691, filed 12/30/93, effective 1/30/94)

WAC 388-43-020 Approval of application for initial device or request for replacement device. (1) An applicant shall fill out ((~~an~~)):

- (a) An application form; and
- (b) A declaration of income statement.

(2) If the department determines an applicant is eligible, TAS shall approve the application except as provided under WAC 388-43-030 (1)(a) or (b).

(3) An eligible applicant's reported total family income and family size described under this subsection shall determine the applicant's level of financial responsibility in obtaining the equipment ((~~under the following federal poverty guidelines~~)):

(a) ((~~Federal Poverty Level (Annual Income)~~))

Family Size	100%	166%	177%	189%	200%
1	6,970.0	11,570.2	12,336.9	13,173.3	13,940.0
2	9,430.0	15,653.8	16,691.1	17,822.7	18,860.0
3	11,890.0	19,737.4	21,045.3	22,472.1	23,780.0
4	13,450.0	23,821.0	25,399.5	27,121.5	28,700.0
5	16,810.0	27,904.6	29,753.7	31,770.9	33,620.0
6	19,270.0	31,988.2	34,107.9	36,420.3	38,540.0
7	21,730.0	36,071.8	38,462.1	41,069.7	43,460.0
8	24,190.0	40,155.4	42,816.3	45,719.1	48,380.0
*9	26,650.0	44,239.0	47,170.5	50,368.5	53,300.0
*10	29,110.0	48,322.6	51,524.7	55,017.9	58,220.0
*11	31,570.0	52,406.2	55,878.9	59,667.3	63,140.0
*12	34,030.0	56,489.8	60,233.1	64,316.7	68,060.0

* More than 8 - Add \$2,460.00 for each additional person

(b) ~~Sliding Scale of Participation~~

(Percent of equipment cost applicant is required to pay)

Percent of Federal Poverty Level	Client Pays Percent of Equipment Cost
0 - 165	0
166 - 176	25
177 - 188	50
189 - 199	75
200 and above	100%

The department shall determine client participation by a sliding scale based on zero percent to two hundred percent of the most recent federal poverty level; and

(b) The department shall ensure the sliding scale is adjusted yearly following the new federal poverty level publication.

(4) A recipient of equipment shall own the equipment, with the exception of a telebraille and tactile signalling device, if the department distributed the equipment before May 15, 1993. When a telecommunications device distributed before May 15, 1993 breaks after warranty has expired, the recipient shall renew ((~~his or her~~)) the equipment application ((~~for equipment~~)) as an original ((~~applicant~~)) application as described under this chapter.

(5) The department shall provide an eligible recipient initial or replacement equipment based on the availability of equipment and/or funds.

(6)(a) "DEC" means a deductible employee contribution;

(b) "Dependent" means a relative who depends on the family income for at least half of the relative's support;

(c) "Family size ((~~is an individual or an individual~~))" means a person or a person and the ((~~individual's~~)) person's spouse, if not legally separated, and the ((~~individual's~~)) person's dependents;

((~~(b) Dependent means a relative who depends on the family income for at least half of their support~~))

(d) "S corporation" means a domestic corporation with one class of stock having thirty-five or less shareholders who are United States citizens;

(e) "SEP" means a simplified employee pension.

(7) Income includes, but is not limited to:

(a) Earned income, such as wages and tips;

(b) Unearned income, such as interest, dividends, and pensions;

(c) Family's share of income from S corporations(([†])), partnerships, estates, and trusts;

(d) Gains from the sale or exchange (including barter) of real estate, securities, coins, gold, silver, gems, or other property;

(e) Gain from the sale or exchange of the family's main home;

(f) Accumulation distributions from trusts;

(g) Original issue discount, distribution from SEPs(([‡])) and DEC's(([‡]));

(h) Amounts received in place of wages from accident and health plans if the employer paid for the policy;

(i) Bartering income;

(j) Tier 2 and supplemental annuities under the Railroad Retirement Act;

(k) Life insurance proceeds from a policy the family cashed in if the proceeds are more than the premiums paid;

(l) Endowments;

(m) Lump-sum distribution;

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- (n) Prizes and awards;
- (o) Gambling winnings;
- (p) Social Security;
- (q) Capital gains;
- (r) Child support received.

~~(¹ An S corporation is a domestic corporation with one class of stock having 35 or less shareholders who are US citizens.~~

~~² An SEP is a Simplified Employee Pension.~~

~~³ A DEC is a deductible Employee Contribution.)~~

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

NEW SECTION

WAC 388-43-130 Uses for returned equipment. (1)

TAS shall issue, as available, the clean and working equipment, which has little or no warranty time left and has been returned to TAS by clients, free of charge to:

- (a) Organizations serving hearing/speech disabled, deaf, and/or deaf-blind persons statewide; and
- (b) Lending libraries of hospitals and/or hospice facilities.

(2) Organizations receiving used TAS equipment free of charge shall be thereafter responsible for equipment maintenance.

WSR 95-03-053
PERMANENT RULES
DEPARTMENT OF
VETERANS AFFAIRS
 [Filed January 12, 1995, 1:38 p.m.]

Date of Adoption: August 31, 1994.

Purpose: Define rule changes for Medicaid certified programs at the two state veterans homes and clarify when appropriate differences between rules for Medicaid certified units and rules for noncertified units.

Citation of Existing Rules Affected by this Order: Amending WAC 484-20-085.

Statutory Authority for Adoption: RCW 43.60A.070 and chapter 72.36 RCW.

Pursuant to notice filed as WSR 94-14-037 on June 29, 1994.

Effective Date of Rule: Thirty-one days after filing.
 January 12, 1995
 A. J. "Beau" Bergeron
 Director

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.

WSR 95-03-060
PERMANENT RULES
COMMUNITY COLLEGES
OF SPOKANE

[Filed January 12, 1995, 4:30 p.m.]

Date of Adoption: October 18, 1994.

Purpose: To clarify and add to the types of prohibited conduct.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Pursuant to notice filed as WSR 94-18-088 on September 2, 1994.

Effective Date of Rule: Thirty-one days after filing.
 October 18, 1994

Geoffrey J. Eng
 District Director
 Affirmative Action
 Administrative Services

NEW SECTION

WAC 132Q-04-097 Eligibility for clinical programs.

Any student who fails to comply with the requirements to be eligible for required clinical programs shall be subject to disciplinary action. Requirements may include, but are not limited to, the student having a record of current immunizations and a physical examination, TB test, CPR proficiency, state patrol clearance, proof of liability, medical and accident insurance coverages.

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

WSR 95-03-062
PERMANENT RULES
LOTTERY COMMISSION

[Filed January 13, 1995, 12:40 p.m.]

Date of Adoption: January 6, 1995.

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Nos. 136 ("Ace In The Hole"), 137 ("Walla Walla Walla"), 138 ("\$2 Bank Roll"), and 139 ("100 Grands").

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 94-23-146 on November 23, 1994.

Changes Other than Editing from Proposed to Adopted Version: The \$500 prize was deleted from the adopted version.

Effective Date of Rule: Thirty-one days after filing.
 January 12, 1995
 Evelyn P. Yenson
 Director

NEW SECTION

WAC 315-11A-136 Instant Game Number 136 ("Ace In The Hole"). (1) **Definitions for Instant Game Number 136.**

- (a) Play symbols: The play symbols are listed below in
- (b) of this subsection. One of these play symbols appears in each of the five play spots under the latex covering on the

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front of the ticket. The latex covered area shall be known as the playfield. One of the five play spots shall be labeled "winning card."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 136, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	SVN
	EGT
	NIN
	TEN
	JCK
	QUE
	KNG
	ASP

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$6.00," "\$12.00," "\$24.00," "100.00," and "\$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning card."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 136, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 6.00	SIX DOL
\$ 12.00	TLV DOL
\$ 24.00	TTF DOL
\$ 100.00	ONEHUND
\$ 5,000	FIVTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 13600001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 136 constitute the "pack number" which starts at 13600001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify

instant winners of \$600.00 or less. For Instant Game Number 136, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1)
SIX	\$ 6.00 (\$3, \$1, \$1 AND \$1; \$3 AND \$3)
TLV	\$ 12.00 (\$3, \$3, \$3 AND \$3; \$6 AND \$6)
FTE	\$ 48.00 (\$12, \$12, \$12 AND \$12; \$24 AND \$24)
OHN	\$100.00

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 136.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning card," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 136, the " " play symbol with the caption "ASP" shall always be a winning play symbol, and the bearer of a ticket which has a " " play symbol with the caption "ASP" shall be entitled to the prize shown below the " " play symbol with the caption "ASP."

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 136 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 136; and/or

(ii) Vary the number of tickets sold in Instant Game Number 136 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 136.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 136 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the five play spots in the playfield on the front of the ticket.

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(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning card" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-137 Instant Game Number 137 ("Walla Walla Walla"). (1) Definitions for Instant Game Number 137.

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," "7," and "Ⓞ." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the six play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 137, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
Ⓞ	ONN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$4.00," "\$8.00," "\$10.00," "\$20.00," "\$80.00," and "\$4,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 137, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 4.00	FOR DOL
\$ 8.00	EGT DOL
\$ 10.00	TEN DOL
\$ 20.00	TWY DOL
\$ 80.00	\$EIGHTY
\$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 13700001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 137 constitute the "pack number" which starts at 13700001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 137, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)
FOR	\$ 4.00 (\$1, \$1, \$1 AND \$1; \$2 AND \$2)
EGT	\$ 8.00 (\$4, \$1, \$1, \$1 AND \$1)
SXT	\$ 16.00 (\$4, \$4, \$4 AND \$4)
FRY	\$ 40.00 (\$8, \$8, \$8, \$8 AND \$8; \$10, \$10, \$10 AND \$10)
ETY	\$ 80.00 (\$20, \$20, \$20, \$10 AND \$10; \$80)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 137.

(a) The price of each instant game ticket shall be \$1.00.

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(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 137, the "Ⓢ" play symbol shall always be a winning play symbol, and the bearer of a ticket which has a "Ⓢ" play symbol shall be entitled to the prize shown below the "Ⓢ" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 137 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 137; and/or

(ii) Vary the number of tickets sold in Instant Game Number 137 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 137.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 137 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each

of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-138 Instant Game Number 138 ("2 Bank Roll"). (1) Definitions for Instant Game Number 138.

(a) Play symbols: The following are the "play symbols": "2," "3," "4," "5," "6," "7," "8," "9," "10," "12" and "Ⓢ". One of these play symbols appears in each of the ten play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the ten play spots shall be labeled "winning numbers."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 138, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
Ⓢ	DLR

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$5.00," "\$10.00," "\$20.00," and "\$10,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning numbers."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 138, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 5.00	FIV DOL
\$ 10.00	TEN DOL

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\$ 20.00 TWY DOL
 \$ 10,000 TENTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 13800001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 138 constitute the "pack number" which starts at 13800001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 138, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
TWO	\$ 2.00	(\$1 AND \$1; \$2)
FIV	\$ 5.00	(\$1, \$1, \$1, \$1 AND \$1; \$2, \$2 AND \$1)
TEN	\$ 10.00	(\$5 AND \$5; \$10)
TWY	\$ 20.00	(\$5, \$5, \$2, \$2, \$2, \$2, \$1 AND \$1; \$5, \$5, \$5 AND \$5)
FTY	\$ 50.00	(\$10, \$10, \$5, \$5, \$5, \$5, \$5 AND \$5; \$20, \$20 AND \$10)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 138.

(a) The price of each instant game ticket shall be \$2.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the eight play symbols matches exactly one of the two play symbols labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) In Instant Game Number 138, the "699" play symbol shall always be a winning play symbol, and the bearer of a ticket which has a "699" play symbol shall be entitled to the prize shown below the "699" play symbol.

(iii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 138 set forth in subsection (3) of this section, to the confidential

validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 138; and/or

(ii) Vary the number of tickets sold in Instant Game Number 138 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 138.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 138 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the ten play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol captions, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

NEW SECTION

WAC 315-11A-139 Instant Game Number 139 ("100 Grands"). (1) Definitions for Instant Game Number 139.

(a) Play symbols: The following are the "play symbols": "1," "2," "3," "4," "5," "6," and "7." One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. One of the six play spots shall be labeled "winning number."

(b) Play symbol captions: The small printed characters appearing below each play symbol which correspond with and verify that play symbol. The caption is a spelling out,

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in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game Number 139, the captions which correspond with and verify the play symbols are:

<u>PLAY SYMBOL</u>	<u>CAPTION</u>
1	ONE
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN

(c) Prize symbols: The following are the "prize symbols": "\$1.00," "\$2.00," "\$3.00," "\$5.00," "\$9.00," "\$18.00," "\$20.00" and "\$1,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 139, the prize symbol captions which correspond with and verify the prize symbols are:

<u>PRIZE SYMBOL</u>	<u>CAPTION</u>
\$ 1.00	ONE DOL
\$ 2.00	TWO DOL
\$ 3.00	THR DOL
\$ 5.00	FIV DOL
\$ 9.00	NIN DOL
\$ 18.00	EGN DOL
\$ 20.00	TWY DOL
\$ 1,000	ONETHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 13900001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 139 constitute the "pack number" which starts at 13900001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket which the lottery retailer uses to verify instant winners of \$600.00 or less. For Instant Game Number 139, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

<u>VERIFICATION CODE</u>	<u>PRIZE</u>
ONE	\$ 1.00
TWO	\$ 2.00 (\$1 AND \$1; \$2)

THR	\$ 3.00 (\$2 AND \$1; \$3)
NIN	\$ 9.00 (\$2, \$2, \$2, \$2 AND \$1; \$3, \$3 AND \$3)
EGN	\$ 18.00 (\$5, \$5, \$3, \$3 AND \$2; \$9 AND \$9)
SXY	\$ 60.00 (\$18, \$18, \$18, \$3 AND \$3; \$20, \$20 AND \$20)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) Criteria for Instant Game Number 139.

(a) The price of each instant game ticket shall be \$1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the five play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 139 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(e) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 139; and/or

(ii) Vary the number of tickets sold in Instant Game Number 139 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) Ticket validation requirements for Instant Game Number 139.

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 139 all of the following validation requirements apply:

(i) Exactly one play symbol must appear in each of the six play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption below it and each must agree with its caption.

(iii) Each of the play symbol captions, except for the "winning number" play symbol caption, shall have a prize symbol below it. Each of the prize symbols shall also have a prize symbol caption below it.

(iv) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font

Validation Number	Validation Font
Retailer Verification Code	Validation Font

(v) Each of the play symbols and its caption, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(vi) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

WSR 95-03-083

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 94-17—Filed January 17, 1995, 4:48 p.m.]

Date of Adoption: January 17, 1995.

Purpose: Establish an agricultural burning program.

Citation of Existing Rules Affected by this Order:
Amending chapter 173-430 WAC.

Statutory Authority for Adoption: RCW 70.94.650.

Pursuant to notice filed as WSR 94-16-096 on August 1, 1994.

Changes Other than Editing from Proposed to Adopted Version:

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Concise Explanatory Statement

In response to public comments, changes were made to the version of the proposed rule published in the *Washington State Register*. The following is the concise explanatory statement, required by RCW 34.05.355, describing the differences between the text of the proposed rule as published in the state register, the text of the rule as adopted and the reason(s) for the change. Redlining (example) indicates language which has been added and strikeouts (example) indicate language which has been deleted.

Amended Proposed Rule	Text	Reason for the Change
030 Add a definition of Ag. Task Force	Ag. Task Force means the Agricultural Burning Practices and Research Task Force.	Clarification
030 Farmer Definition	Farmer: Means any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.	Clarification
030 Permitting Authority Definition	Means a local air authority (and the department where no local air authority exists) or their delegate. Conservation districts, counties, or fire districts, or fire protection agencies may receive delegation for all or portions of the agricultural burning permit program as identified in a delegation agreement. The permitting authority will issue agricultural burning permits for a given locale.	Consistency
040(2)(b)(ii)	The application must describe the reason for burning and include at least the following information: Name and address of the person or corporation responsible for the burn, the specific location (county; legal description: range, section, township, block, and unit number), the crop type, the type or size of the burn, directions to the burn, and any additional information required by the permitting authority.	Clarification
040(5) Other laws	A farmer must obtain any local permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer also must follow other agreements entered into with any federal, state, or local agency.	Clarification

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Amended Proposed Rule	Text	Reason for the Change
050(2)	The Ag. Task Force may establish an agricultural burning general best management practice and crop-specific best management practices, as appropriate. The Ag. Task Force will work in conjunction with conservation districts and extension agents or other local entities in developing best management practices. The Ag. Task Force may review and approve crop-specific best management practices that have been developed or recommended by an individual or group.	Clarification
050(3)	Approved best management practices information will be available from the permitting authorities. The Ag task force, as it deems necessary, will hold public workshops on best management practices that have changed or are new and will periodically review the best management practices starting three years after approval.	Clarification
070(1)(e)	No burning during adverse against advised meteorological conditions;	Clarification
070(1) Add a section (h)	(h) Attending the fire at all times.	Clarification
090	Receiving delegation--Counties, conservation districts, fire districts, and fire protection agencies.	Consistency
090(2)	When a local air authority (or the department where no local air authority exists) finds that a county, fire protection agency authority or conservation district is capable of administering the permit program and desires to do so, it may delegate by administrative order the administration and/or enforcement authority of the program.	Consistency
090(3)	Delegation may be withdrawn if the department or the local air authority finds that the agricultural burning program is not effectively being administered and/or enforced. Before withdrawing delegation, the delegated agency shall be given a written statement of the deficiencies in the program and a compliance schedule to correct program deficiencies. If the delegated agency fails to correct the deficiencies according to the compliance schedule, then the department or the local air authority may withdraw delegation the department of the local air authority shall offer a change to correct the permit program deficiencies.	Consistency

Effective Date of Rule: Thirty-one days after filing.
January 17, 1995
Terry Husseman
for Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-010 Purpose of the regulation. ~~((1))~~ This chapter, promulgated under chapter 70.94 RCW, as amended, is to assume state jurisdiction over and to control emissions from agricultural burning including the burning of field and forage, and turf grasses grown for seed and for the proper development of the state's natural resources.

~~(2) Authority to enforce all provisions of this regulation, including establishing permit conditions and issuing permits, is delegated to and shall be carried out by all activated air pollution control authorities or ecology for those areas not under the jurisdiction of an authority.~~

~~(3) The purpose of this chapter is to:~~

~~(a) Minimize adverse effects on air quality from agricultural burning;~~

~~(b) Provide for implementation of a research program to explore and identify economical and practical alternatives to agricultural burning;~~

~~(c) Provide for interim regulation of such burning until practical alternatives are found.)~~ This chapter, promulgated under chapter 70.94 RCW, the Washington Clean Air Act, authorizes the department of ecology to implement the provisions of that act. This rule establishes controls for agricultural burning in the state in order to minimize adverse health and the environment effects from agricultural burning. The control strategies include:

(1) Establishing a permit program with minimum state-wide requirements.

(2) Providing for implementation of a research program to explore and identify economical and practical alternatives to agricultural burning.

(3) Encouraging and developing economically feasible alternative methods to agricultural burning.

(4) Limiting the scope of the rule to agricultural burning and distinguishing between agricultural burning and other types of burning.

(5) Providing for local administration of the permitting program through delegation.

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-020 ((Definitions.)) General applicability. ((The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the following words and phrases as used in this chapter, shall have the following meanings:

~~(1) Agricultural burning: Burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.~~

~~(2) Field and forage grasses: Canarygrass, bromegrass, oatgrass, timothy, wheatgrass, and orchardgrass, planted to produce seed.~~

~~(3) Straw: All material, other than seed, removed by swathing, combining, or cutting.~~

~~(4) Tear out: Any operation that destroys the existing crop and prepares the area for next year's planting.~~

~~(5) Turf grasses: All blue grasses, fescues, bentgrass, and perennial ryegrass, planted to produce seed.)~~ This regulation applies to burning related to agricultural activities and includes the burning of fields, prunings, weeds, and irrigation ditches, drainage ditches, fence rows or other essential pathways. It does not apply to silvicultural burning or open burning.

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-030 ((Permits, conditions, and restrictions.)) Definition of terms. ~~((1))~~ No agricultural burning including open burning of field or forage grasses, or turf grasses shall be undertaken unless a permit has been obtained from ecology or an authority, as appropriate. Local air agencies (and ecology where no local air agencies exist) may issue permits for appropriate agricultural burning activities in nonattainment and urban growth areas.

~~(2) For open burning of field or forage grasses, or turf grasses, the issuance, denial, or conditioning of permits shall be governed by consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the amount of straw removal required, the applicant's need to carry out such burning, and the public's interest in the environment. Permits will be conditioned to minimize air pollution interest in the environment. Permits will be conditioned to minimize air pollution. Until approved alternatives become available, ecology or the authority may limit the number of acres, on a pro-rata basis, among those affected for which permits to burn will be issued in order to control emissions.~~

~~Burning of acreage not previously under permit may be banned or subject to more restrictive conditions. Burning of field and forage grasses may be restricted, and other measures may be required to minimize air pollution.~~

~~Permits issued before 1978 will establish a permit history for the applicant. This permit history will apply to an applicant and not to specific parcels of land and is established only for the maximum amount of acreage included in any permit issued before 1978. Land transferred to a spouse, son, or daughter, will retain a permit history as established by the original applicant.~~

~~Any permit denial or restriction may first be applied to applicants without a permit history and to amounts of acreage not included in an applicant's permit history.~~

~~Applicants who received permits before 1978 may be given priority for burning the amount of acreage cited in the permit history.~~

~~(3) Open burning of field and forage grasses shall be prohibited. However, a permit using restrictions or conditions, may be issued to burn field and forage grasses for disease, pest, or weed control, if such need is certified by a county agent or other agricultural authority; or if such~~

grasses were planted as part of a soil erosion control plan approved by a conservation district.

(4) Open burning of all grasses scheduled for tear out shall be prohibited unless a permit specifically allows such burning.

(5) Practical alternative production methods and disease controls which would reduce or eliminate agricultural burning shall be used when reasonably available. These methods and controls shall be used regardless of specific provisions of the compliance program described in this section.) The definitions of terms contained in chapter 173-400 WAC are incorporated into this chapter by reference. Unless a different meaning is clearly required by context, the meanings of the following words and phrases used in this chapter are listed below.

(1) **Agricultural burning:** Means the burning of vegetative debris from an agricultural operation necessary for disease or pest control, necessary for crop propagation and/or crop rotation, or where identified as a best management practice by the agricultural burning practices and research task force established in RCW 70.94.650 or other authoritative source on agricultural practices.

(2) **Agricultural operation:** Means a farmer who can substantiate that the operation is commercial agriculture by showing the most recent year's IRS schedule F form or proof that the land is designated in a classification for agricultural use. It also includes burning conducted by irrigation district or drainage district personnel as part of water system management.

(3) **Ag task force:** Means the agricultural burning practices and research task force.

(4) **Best management practice:** Means the criteria established by the agricultural burning practices and research task force (Ag task force).

(5) **Department:** Means the department of ecology.

(6) **Farmer:** Means any person engaged in the business of growing or producing for sale upon their own lands, or upon the land in which they have a present right of possession, any agricultural product. Farmer does not mean persons using such products as ingredients in a manufacturing process, or persons growing or producing such products primarily for their own consumption.

(7) **Open burning:** Means all forms of burning except those listed as exempt in WAC 173-425-020.

(8) **Permitting authority:** Means a local air authority (and the department where no local air authority exists) or their delegate. Conservation districts, counties, fire districts, or fire protection agencies may receive delegation for all or portions of the agricultural burning permit program as identified in a delegation agreement. The permitting authority will issue agricultural burning permits for a given locale.

(9) **Silvicultural burning:** Means burning on any land the department of natural resources protects per RCW 70.94.030(13), 70.94.660, 70.94.690, and pursuant to chapter 76.04 RCW.

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-040 ((Mobile field burners.)) **Agricultural burning requirements.** ((Mobile field burners, and other methods of incineration not classified as outdoor burning, shall not be prohibited by the restrictions in WAC 173-430-030. *Provided*, That emissions do not exceed the following standards:

(1) Visible emissions shall not exceed an opacity of 20 percent for more than three minutes in any one hour;

(2) Particulate emissions shall not exceed 0.1 grains per standard dry cubic foot of exhaust gas, corrected to seven percent oxygen.) (1) Agricultural burning is allowed when it is reasonably necessary to carry out the enterprise. A farmer can show it is reasonably necessary when it meets the criteria of the best management practices and no practical alternative is reasonably available.

(2) All agricultural burning requires a permit.

(a) To qualify for an agricultural burning permit the farmer must be an agricultural operation or government entity with specific agricultural burning needs, such as irrigation districts, drainage districts, and weed control boards.

(b) A farmer must fill out the information requested on a permit application (or the permit) and return it to the permitting authority.

(i) The permitting authority may require the farmer to fill out an application prior to issuing a permit.

(ii) The application must describe the reason for burning and include at least the following information: Name and address of the person or corporation responsible for the burn, the specific location (county; legal description: Range, section, township, block and unit number), the crop type, the type or size of the burn, directions to the burn, specific reason for the burn, the target date for burning, and any additional information required by the permitting authority. Each permitting authority may require additional information on the application.

(iii) All applications must comply with other state or local regulations.

(c) The permitting authority must evaluate the application, if there is one, and approve the permit prior to burning.

(d) Local air agencies (and the department where no local air agency exists) may issue permits for appropriate agricultural burning activities in nonattainment and urban growth areas.

(3) All agricultural burning permits require a fee. After January 1, 1995, the fee is the greater of:

(a) A minimum fee of twenty-five dollars per year per farm based on burning up to ten acres or equivalent which will be used as follows: Twelve dollars and fifty cents of which goes to the agricultural burning research fund and the remainder will be kept by the permitting authority to cover the costs of administering and enforcing this regulation; or

(b) A variable fee based on the acreage or equivalent of agricultural burning which will be used as follows: Up to one dollar per acre for applied research, twenty-five cents per acre for ecology administration and up to one dollar and twenty-five cents per acre for local permit program administration.

(i) Local permitting program administration. One portion of the fee shall cover the permitting authority's costs of administering and enforcing the program. The permitting authority may set the fee as an amount per farm per year, a set amount per fire, or a set rate no greater than one dollar and twenty-five cents per acre burned. The permitting authority must establish this portion of the fee by an appropriate, public process such as a local rule, ordinance, or resolution. In areas of the state where the department is the permitting authority this portion of the fee shall be one dollar and twenty-five cents per acre burned.

(ii) Ecology administration. Another portion of the fee shall be twenty-five cents per acre burned and cover the state-wide administrative, education, and oversight costs of the department. The amount (if any) by which the annual total, of this portion of the fee, exceeds the annual state-wide administrative, education, and oversight costs shall be deposited in the agricultural burning research fund of the air pollution control account.

(iii) Research fund. A final portion, the agricultural burning applied research portion, of the fee shall be no greater than one dollar per acre burned. The amount assessed may be less than one dollar per acre burned as periodically determined by the Ag task force based on applied research needs, regional needs and the research fund budget. The research portion of the fee assessed shall be fifty cents per acre burned starting in calendar year 1995. The Ag task force may also establish discounted assessment rates based on the use of best management practices.

(c) A farmer must pay the fee prior to receiving a permit. Refunds are allowed for portions not burned provided the adjusted fee after subtracting refunds is no less than twenty-five dollars.

(d) The agricultural burning practices and research task force may set acreage equivalents, for nonfield style agricultural burning practices, based on the amount of emissions relative to typical field burning emissions. Any acreage equivalents, established by rule, shall be used in determining fees. For agricultural burning conducted by irrigation or drainage districts, each mile of ditch (including banks) burned is calculated on an equivalent acreage basis.

(4) All agricultural burning permits must be conditioned to minimize air pollution.

(a) A farmer must comply with the conditions on the agricultural burning permit.

(b) For purposes of protecting public health (not eliminating agricultural burning), if an area exceeds or threatens to exceed unhealthy air pollution levels, the permitting authority may limit the number of acres, on a pro rata basis, or as provided by RCW 70.94.656.

(c) Permits must be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

(5) Other laws. A farmer must obtain any local permits, licenses, or other approvals required by any other laws, regulations, or ordinances. The farmer must also honor other agreements entered into with any federal, state, or local agency.

AMENDATORY SECTION (Amending Order 90-10, filed 9/17/90, effective 10/18/90)

WAC 173-430-050 ((Other approvals.)) Best management practices. ((A person applying for a permit under this chapter is still required to obtain permits, licenses, or approvals required by any other laws, regulations, or ordinances.)) (1) The Ag task force must identify best management practices for agricultural burning that are economically feasible and socially acceptable. Practical alternative production methods and controls which would reduce or eliminate agricultural burning must be used when reasonably available.

(2) The Ag task force may establish an agricultural burning general best management practice and crop-specific best management practices as appropriate. The Ag task force will work in conjunction with conservation districts and extension agents or other local entities in developing best management practices. The Ag task force may review and approve crop-specific best management practices which have been developed or recommended by an individual or group.

(3) Approved best management practices information will be available from permitting authorities. The Ag task force, as it deems necessary, will hold public workshops on best management practices that have changed or are new and will periodically review the best management practices starting three years after approval.

(4) The Ag task force will clarify best management practices and make interpretative decisions as needed, considering all authoritative sources on the subject.

(a) An individual or group may request a best management practice clarification from the task force.

(b) The chair of the Ag task force may direct the questioned practice to a subgroup of task force members, provided that agricultural, research, and regulatory interests are included and all task force members are notified, or may direct it to the whole AG task force.

(5) The Ag task force will modify best management practices as necessary to incorporate the latest research.

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-060 ((Study of alternatives.)) Research into alternatives to agricultural burning. ((Ecology shall conduct, cause to be conducted, or approve of a study or studies to explore and identify economical and practical alternative practices to open burning of field and forage, and turf grasses. To conduct any such study, ecology may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible. Ecology shall annually review the progress of such studies, review provisions of this regulation and available alternatives to burning and determine if continuing open burning of field and forage, and turf grasses is justified.)) (1) The department shall administer the research portion of the permit fee to carry out the recommendations of the Ag task force. In carrying out the recommendations, the department may conduct, cause to be conducted, or approve of a study or studies to explore and test economical and practical alternative practices to agricultural burning. To conduct any such study, the department

may contract with public or private entities. Any approved study shall provide for the identification of such alternatives as soon as possible.

(2) The Ag task force will annually review research needs and submitted proposals and make its recommendations to the department.

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-070 ((Fees-)) General agricultural burning permit conditions and criteria. (((1) To support the study or studies described in WAC 173-430-060, ecology or an authority shall collect a fee:

(a) For field and forage, and turf grasses grown for seed, the fee is one dollar per acre of crop. The fee is to be collected before any permit is issued under WAC 173-430-030. This fee shall be submitted with individual permit applications.

(b) For all other agricultural practices, a twenty dollar nonrefundable permit/application fee shall be assessed and submitted with the general agricultural burning permit application. This twenty dollar fee is effective for the interim period ending when the agricultural burning practices and research task force establishes a permanent fee level (pursuant to RCW 70.94.650), or January 1, 1995, whichever occurs first.

(2) When a permit is granted to burn fewer acres of field and forage, and turf grasses grown for seed than requested in the permit application, ecology or the authority shall refund to the permit applicant the unused part of the permit fee.

(3) No part of the permit fee will be refunded if a grower decides to burn fewer acres than the permit allows.

(4) After granting any permit and making any refund required under WAC 173-430-070(2), the authority shall transfer the permit fee to ecology.

(5) Ecology shall deposit all permit fees in the air pollution control account.

(6) Ecology shall allocate moneys annually from this account to support approved studies provided for in WAC 173-430-060, up to the amount appropriated to ecology for such purpose.

(7) When ecology concludes that enough reasonably available alternative practices to the open burning of field and forage, and turf grasses grown for seed have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved. Any money remaining in the account shall revert to the general fund.)) Permit decisions including the issuance, denial, or conditioning must be based on consideration of air quality conditions in the area affected by the proposed burning, the time of year, meteorological conditions, the size and duration of the proposed burning activity, the type and amount of vegetative material to be burned, the applicant's need to carry out such burning, existence of extreme burning conditions, risk of escape onto property owned by another, and the public's interest in the environment.

(1) Permits must include the following conditions:

(a) No burning at night except as a best management practice;

(b) Complying with all fire safety regulations of the local fire protection agency including any no-burn directives they may issue;

(c) Calling the local air authority burning information line (if there is one) before lighting the fire;

(d) Burning when wind takes the smoke away from roads, homes, population centers, or other public areas, to the greatest extent possible;

(e) No burning when adverse meteorological conditions;

(f) Burning only natural vegetation;

(g) No burning or adding fuel during any stage of an air pollution episode or local air quality burning ban;

(h) Attending the fire at all times.

(2) If the permitting authority determines a specific situation will cause a nuisance under chapter 173-400 WAC or RCW 70.94.640, agricultural burning will not be allowed.

AMENDATORY SECTION (Amending Order 92-58, filed 6/28/93, effective 7/29/93)

WAC 173-430-080 ((Certification of alternatives.)) Responsibilities of a permitting authority. ((When enough information on alternative practices to open burning of field and forage, and turf grasses grown for seed becomes available, ecology shall conduct public hearings to receive testimony from interested parties. If ecology then concludes that any procedure, program, technique, or device is a practical alternative to the open burning of field and forage and turf grasses grown for seed, ecology shall, by order, approve such alternative. After approval, any alternative that is reasonably available shall be used; and open burning of field and forage, and turf grasses grown for seed shall not be allowed.)) The permitting authority must establish and administer an agricultural burning permit system. The minimum responsibilities are described in this section.

(1) The permitting authority must act on a complete application (as determined by the agency) within seven days of receipt.

(a) The permitting authority must evaluate the application and approve or deny all or part of it.

(b) The permitting authority must evaluate the application to determine if the requested burning is within the general or crop-specific best management practices.

(c) If the application is denied, the reason must be stated.

(2) Permitting authorities must determine day-to-day burning restrictions near populated areas and arrange for dissemination of the results.

(3) The permitting authority or its delegate is responsible for responding to agricultural burning complaints.

(4) The permitting authority must collect the fee and determine the local administration portion of the fee.

(a) Permitting authorities must issue a permit fee refund when a farmer decides to burn fewer acres than identified in the permit on confirmation by the permitting authority.

(b) Permitting authorities must formally adopt the local administration portion of the fee through rule, regulation, ordinance, or resolution.

(5) The permitting authority must transfer the research and ecology administration portion of the fee to the department.

(a) Funds should be transferred twice a year or as designated in the delegation agreement.

(b) The department must deposit all agricultural burning permit fees in the air pollution control account. Permitting authorities may deduct the local administration portion before forwarding the remainder to the department. The portion of the fee designated for research shall be deposited in a special account in the air pollution control account.

(6) The permitting authority must coordinate compliance. Violations are subject to the remedies of chapter 70.94 RCW, Washington Clean Air Act.

NEW SECTION

WAC 173-430-090 Receiving delegation—Counties, conservation districts, and fire protection agencies: (1) The permitting authority is the local air authority (or the department where no local air authority exists), or their delegate. The permitting authority is responsible for administering the agricultural burning permit program. The agricultural burning permit program may be delegated to conservation districts, counties, or fire protection agencies.

(2) When a local air authority (or the department where no local air authority exists) finds that a county, fire protection agency or conservation district is capable of administering the permit program and desires to do so, it may delegate by administrative order the administration and/or enforcement authority of the program. Delegation criteria include:

(a) Demonstrating that the responsibilities listed under permitting authority responsibilities section can be fulfilled; and

(b) Employing, contracting with, or otherwise accessing someone educated and trained in agronomics.

(3) Delegation may be withdrawn if the department or the local air authority finds that the agricultural burning program is not effectively being administered and/or enforced. Before withdrawing delegation, the delegated agency shall be given a written statement of the deficiencies in the program and a compliance schedule to correct program deficiencies. If the delegated agency fails to correct the deficiencies according to the compliance schedule, then the department or the local air authority may withdraw delegation.

(4) Permitting authorities must work through agreement with counties (if the county is not the permitting authority) and cities to provide convenient methods for issuing permits and granting permission to burn.

NEW SECTION

WAC 173-430-100 Severability. The provisions of this regulation are severable. If any provision is held invalid, the application of such provision to other circumstances and the remainder of the regulation will not be affected.

WSR 95-03-090

PERMANENT RULES

PERSONNEL RESOURCES BOARD

[Filed January 18, 1995, 10:48 a.m., effective March 1, 1995]

Date of Adoption: January 12, 1995.

Purpose: The adoption of these rules will eliminate the need for multiple changes to the rules and to be in alignment with the higher education rules.

Citation of Existing Rules Affected by this Order: New WAC 356-06-110; and amending WAC 356-34-030.

Statutory Authority for Adoption: Chapter 41.06 RCW, RCW 41.06.150.

Pursuant to notice filed as WSR 95-01-073 on December 15, 1994.

Effective Date of Rule: March 1, 1995.

January 17, 1995

Dennis Karras
Secretary

NEW SECTION

WAC 356-06-110 Federal preemption - Fair Labor Standards Act. Agencies shall comply with the personnel resources board rules (Title 356 WAC) unless doing so causes them to violate the Fair Labor Standards Act.

AMENDATORY SECTION (Amending WSR 92-20-025, filed 9/28/92, effective 11/1/92)

WAC 356-34-030 Suspension-Duration-Procedure. Appointing authorities may suspend a permanent employee without pay for cause as specified in these rules.

~~((+))~~ The period of suspension for ~~((scheduled and non-scheduled work period))~~ employees shall not exceed fifteen calendar days for a single penalty or ~~((for))~~ a total of thirty calendar days in any calendar year as a result of several penalties per RCW 41.06.170. The specified charges and duration of the action shall be furnished in writing to the employee not later than one calendar day after the suspension becomes effective. ~~((A copy shall be submitted to the director of personnel.))~~ Notice to the employee shall be made in the manner described in WAC 356-34-045. No qualifying time or seniority shall be denied for any period of suspension.

~~((2))~~ ~~Exceptions work period employees may be suspended only in work week increments, not to exceed two workweeks for a single penalty or a total of four workweeks in any calendar year as a result of several penalties per RCW 41.06.170; except, suspensions for less than workweek increments may be imposed for infractions of safety rules of major significance. The specified charges and duration of the action shall be furnished in writing to the employee not later than one calendar day after the suspension becomes effective. A copy shall be submitted to the director of personnel. Notice to the employee shall be made in the manner described in WAC 356-34-045. No qualifying time or seniority shall be denied for any period of suspension.))~~

**WSR 95-03-002
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 95-02—Filed January 4, 1995, 4:00 p.m.]

Date of Adoption: January 4, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-32-057.

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 sturgeon are available and these rules are adopted to conform with regulations adopted by treaty tribes to harvest their allotment of available sturgeon.

Effective Date of Rule: Immediately.

January 4, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-32-05700Q Columbia River sturgeon seasons above Bonneville. (1) Notwithstanding the provisions of WAC 220-32-057, effective immediately until further notice, it is unlawful for a person to take sturgeon with set line gear or to possess sturgeon taken with set line gear for commercial purposes from Columbia River Salmon Management Catch Reporting Areas 1F, 1G, and 1H, except that those individuals possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties may fish for sturgeon using set line gear effective January 1, 1995 through January 31, 1995.

(2) During the season specified in section 1, it is unlawful:

- (a) To retain for commercial purposes sturgeon less than 48 inches or greater than 72 inches in length.
- (b) To remove the head or tail from a sturgeon prior to its sale to a wholesale dealer licensed under RCW 75.28.300.
- (c) To sell, barter, or attempt to sell or barter sturgeon eggs that have been removed from the body cavity of the sturgeon prior to the time the sturgeon is sold to a wholesale dealer licensed under RCW 75.28.300.

(3) During the season specified in section 1, it shall be unlawful to use set line gear:

- (a) With more than 100 hooks per set line;
- (b) With hooks less than the minimum size of 9/0;
- (c) With treble hooks; or
- (d) Without visible buoys attached and with buoys that do not specify operator and tribal identification.

(4) Notwithstanding the provisions of WAC 220-22-010, during the season specified in section 1:

(a) Area 1F (Bonneville Pool) includes those waters of the Columbia River upstream from the Bridge of Gods, and downstream from the west end of the 3 mile rapids.

(b) Area 1G includes those waters of the Columbia River upstream from a line drawn between a point one mile above the fishway exit on the Washington shore and a point one mile above the fishway exit on the Oregon shore, and downstream from Preacher's Eddy light below John day Dam.

(c) Area 1H includes those waters of the Columbia River upstream from a fishing boundary marker approximately one-half mile above the John day River, Oregon, to a fishing boundary marker on the Washington shore and downstream from a line at a right angle across the thread of the river one mile downstream from McNary Dam.

**WSR 95-03-013
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 95-03—Filed January 5, 1995, 4:51 p.m., effective January 7, 1995]

Date of Adoption: January 5, 1995.

Purpose: Commercial fishing regulation.

Citation of Existing Rules Affected by this Order:
Amending WAC 220-33-040.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Two consecutive years of poor smelt returns to the Columbia River and tributaries and a prediction of another poor return in 1995 requires a reduction in the commercial smelt fishery.

Effective Date of Rule: January 7, 1995.

January 5, 1995
Dayna Matthews
for Robert Turner
Director

NEW SECTION

WAC 220-33-04000A Commercial smelt below Bonneville Dam Notwithstanding the provisions of WAC 220-33-040 effective January 7, 1995 through March 31, 1995, it shall be unlawful to take, fish for, or possess smelt in the Columbia river and tributaries below Bonneville Dam except during the open weekly fishing periods described below:

OPEN FISHING PERIOD:
8:00 pm Saturday until 8:00 am Wednesday.

EMERGENCY

WSR 95-03-059
EMERGENCY RULES
DEPARTMENT OF ECOLOGY
 [Order 94-03—Filed January 12, 1995, 4:25 p.m.]

Date of Adoption: January 12, 1995.

Purpose: Expressly authorize integrated compliance with SEPA and GMA.

Citation of Existing Rules Affected by this Order: Extension of emergency rule amending chapter 197-11 WAC.

Statutory Authority for Adoption: RCW 43.21C.110.

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: Reduce waste of public resources brought about by duplication and inefficiencies in meeting the requirements of SEPA and GMA. Reduce risks to the health, safety and general welfare caused by not fully taking into account environmental factors in the development of plans and regulations at the time decisions are made.

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Note: This emergency rule will expire on the effective date of the amendments to chapter 197-11 WAC as proposed in WSR 94-19-083 on September 21, 1994.

Effective Date of Rule: Immediately.

January 12, 1995
 Mary Riveland
 Director

**Integrating the Growth Management Act (GMA)
 and the State Environmental Policy Act (SEPA)**

PREAMBLE

This preamble is included to help the reader understand the emergency rule shown below. It provides information only and is not regulatory. The reader should refer to the rule for more complete direction.

A. Purpose and policy of integrating SEPA review with GMA planning:

(1) Deadlines for Growth Management Act plan decisions are imminent, and a number of cities and counties are seeking to integrate their GMA and SEPA processes in the initial phase of GMA compliance in order to protect and promote public safety, health and welfare in their communities. Moreover, communities are preparing, refining and revising comprehensive plan elements, subarea plans, and development regulations under GMA. The current SEPA rules do not explicitly authorize local governments planning under GMA to, among other things, initiate expanded scoping prior to SEPA threshold determinations, to make threshold determinations after proposed GMA actions are developed, or to use a substantially different format for integrated GMA/SEPA documents. The primary purpose of this rule is to provide such explicit authorization.

(2) Both GMA and SEPA seek to achieve healthy, sustainable communities and productive harmony between people and nature. GMA governs policy choices on manag-

ing growth through local comprehensive plans and development regulation. SEPA requires that a decision on these GMA actions, as well as subsequent decisions on specific projects, consider impacts to the natural and built environment. By providing plans and development regulations that are both more specific and more comprehensive than in the past, GMA will produce policies for land use and resource management that have sometimes been the result of project level review under SEPA. As GMA is implemented, comprehensive plans and development regulations should result in faster and more focused site specific environmental review.

B. Preface on integrating SEPA review with GMA planning.

(1) Among other mandates, SEPA requires all state and local agencies to use an interdisciplinary, integrated approach to build environmental factors into planning and making decisions. The terms "SEPA review" or "environmental review" are used in these rules to refer to state and local agencies giving appropriate consideration to the environment in agency decision making. Although these terms include formal SEPA documents and determinations, such as environmental impact statements (EISs) and determinations of nonsignificance (DNSs), SEPA or environmental review has a much more inclusive meaning. These terms refer to the basic concept of taking environmental quality into account in whatever an agency does. See RCW 34.21C.020, [34.21C.]030, [34.21C.]060; WAC 197-11-030 and [197-11-]746.

(2) GMA governs one of the most important things that agencies do. Under GMA, local agencies adopt policies, plans and regulations to manage land use, environmental resources, and other aspects of growth in their own jurisdictions and in a coordinated way with other jurisdictions. It is not possible to develop policies, plans, or regulations that meet GMA goals or to make informed plan decisions without giving appropriate consideration to environmental factors.

(3) Over the past 20 years, many people have focused on the SEPA process in terms of whether or not an environmental impact statement is required (a SEPA threshold determination), rather than on how to provide useful environmental analysis to make decisions. This problem has been compounded by a general unwillingness to depart from a typical environmental checklist or EIS format and to combine other planning and SEPA documents, even though these rules mandate and encourage people to do so. GMA and SEPA will be integrated only if:

(a) Quality environmental analysis is performed along with other planning analyses, often well in advance of formal SEPA determinations and proposed GMA plan documents;

(b) An ongoing informal effort is made to define the scope of the options and their environmental consequences throughout the planning process leading up to plan decisions; and

(c) GMA and SEPA documents are one and the same wherever possible, rather than preparation of separate "planning" and "environmental" documents.

C. Integrating the timing of GMA actions and SEPA review.

(1) Interrelationship between environmental analysis and planning.

(a) Environmental review occurs from the time planning begins through the time that policies, plans, and regulations are finally adopted. It then recommences or continues as policies, plans, and regulations are amplified, refined, and amended. For practical purposes, this review falls into two areas: (i) Preliminary analysis needed to develop and define a proposed action; and (ii) formal determinations or documents that accompany proposed actions through formal public and agency comment and adoption.

(b) Preparing GMA policies, plans, and regulations involves a community exploring and testing visions, goals, directions, concepts, options, tradeoffs, consequences, and so on. Environmental as well as fiscal and other analysis should be part of and occur throughout this planning process. Sound environmental (and other necessary) analysis and good comprehensive land use planning are basically inseparable. Formal GMA and SEPA documents represent the "tip of the iceberg" which reflect a "snapshot" of the planning process at the time these documents are written.

(c) SEPA's formal documents serve three main purposes, as emphasized elsewhere in these rules: (i) To document that actual and appropriate consideration of environmental values occurred in the planning process; (ii) to provide public, agency and tribal review and comment prior to adopting a policy, plan, or regulation; and (iii) to ensure coordination among the policies, plans, and regulations of various governments. As this rule provides, these purposes can be met to a greater degree by integrated SEPA/GMA documents.

(d) The process of preparing good policies, plans, and regulations should allow for ongoing, informal interaction among public officials and all sectors of the public. Each city and county has the discretion to decide the most useful time for preparing both preliminary environmental analyses and formal SEPA documents and determinations. WAC 197-11-055 (2)(b).

(e) It is the intent of this rule to set a clear standard for the time by which formal SEPA documents and determinations must be prepared and to provide wide latitude for cities and counties to decide how to structure an integrated SEPA/GMA process.

(2) Preliminary environmental analysis and preliminary planning: Scoping a community's options.

(a) Exploring options and ideas. Thinking "out loud" about environmental quality is one of the essential purposes of SEPA and GMA. This approach may be considered preliminary discussion, exploration or documentation of ideas and options, and may occur prior to commencing "formal" environmental review. See WAC 197-11-055 (1), (2)(a)(ii), (4)(c), which should be interpreted as applying to GMA planning prior to the stage of a formally proposed plan or development regulation.

(b) Preliminary environmental analyses. Prior to a threshold determination but as part of the planning process, GMA jurisdictions may prepare environmental analyses for use by decision makers and the public to assist in developing and reviewing preliminary drafts of GMA plan decisions and amendments, including county-wide planning policies, comprehensive plans, subarea plans, and development regulations, or elements or portions of these documents. This integrated approach implements one of SEPA's basic purposes: To use environmental and ecological information

in an interdisciplinary planning process to develop proposed actions.

(c) Scoping of options and studies. Both GMA and SEPA require that reasonable alternatives and their impacts be identified and considered, in consultation with other agencies, tribes, and the public, so that proposals can be developed that further the purposes of these laws. See RCW 43.21C.030 and [43.21C.]110(1), 36.70A.020 and [36.70A.]140, WAC 365-195-060, [365-195-]210(26), [365-195-]300(2); [365-195-]600 and [365-195-]610. Some people have misunderstood "scoping" under SEPA as referring to the public comment period on the proposed scope of environmental studies. As stated in WAC 197-11-793, [197-11-]408, [197-11-]750 and [197-11-]410, "scoping" is the ongoing process of defining these options and consequences and the studies needed to evaluate them.

(d) Scoping process. Although one or more time periods for public and interagency comment may occur as part of scoping, the scoping process actually continues until the final, formal environmental document (or integrated GMA/SEPA document) has been prepared on a proposal. Public comment is one element of scoping, as is in-house analysis by the lead agency or its consultants. Scoping therefore has various phases, from initial visions or concepts, to defining and budgeting scopes of studies, to refining scopes of studies based on public comments or in-house analysis at various points in the planning process.

(e) Use of expanded scoping. Although "scoping" under SEPA is required when EISs are prepared, "expanded scoping" can be used at any time to promote interagency cooperation, public participation, and innovative ways to streamline the SEPA process. See WAC 197-11-410(2). Expanded scoping can be used prior to, and to assist in making, SEPA threshold determinations. To achieve effective integration between GMA planning and SEPA environmental review, therefore, expanded scoping can and should be combined with similar in-house and public preliminary planning work under GMA to articulate community visions and concepts, explore alternatives, identify potential impacts (whether or not environmental), and define studies needed to develop and make decisions on proposed actions under GMA.

D. Principles for integrating SEPA and GMA.

In jurisdictions planning under GMA, all citizens and governmental entities should:

(a) Do comprehensive land use planning through the GMA process (including plan-level environmental analysis) rather than through SEPA review of proposed projects;

(b) Think about environmental quality as each community charts its future, by involving diverse sectors of the public and by incorporating early and informal environmental analysis into GMA planning and decision making;

(c) Recognize that different questions will need to be answered and different levels of detail will apply for each GMA action and at each phase of GMA planning, from the initial development of plan concepts or plan elements to implementation programs.

(c) Use SEPA review together with other analyses and public involvement to produce better plan decisions;

(d) Combine to the fullest extent possible the processes, analysis, and documents required under GMA and SEPA, so that GMA plan decisions and subsequent implementation

will incorporate measures to promote the environmental, economic, and other goals of GMA and SEPA and mitigate undesirable or unintended adverse impacts on a community's quality of life;

(e) Focus environmental review and the level of detail needed for different stages of plan and project decisions on the environmental choices most relevant to that stage of the process;

(f) Not duplicate the review that has occurred for plan decisions when specific projects are proposed;

(g) Use environmental review on projects to help: (i) Review and document consistency with GMA plans and regulations; (ii) provide prompt and coordinated review by agencies, tribes and the public on compliance with applicable environmental laws and plans, including mitigation for site specific project impacts that have not been considered and addressed at the plan level; and (iii) ensure accountability by local government to applicants and the public for requiring and implementing mitigation measures; and

(h) Maintain or improve the quality of environmental analysis both for plan and for project decisions, while integrating these analyses with improved state and local planning and permitting processes.

E. Examples of integration options.

Either of two different approaches to the timing of formal SEPA documents and determinations would meet the intent to integrate environmental factors into planning and decision making:

(a) Phased or tiered approach using formal SEPA documents. Agencies may choose to produce [or] issue formal environmental documents at various steps throughout the GMA process, leading up to a proposed GMA comprehensive plan. This could be one way to encourage comment on specific concepts or plan elements prior to a proposed plan/EIS. For example, a draft EIS could be issued for public comment on different overall plan concepts. The environmental consequences would be at a very broad policy level of detail, focusing on broad choices and tradeoffs. By its very purpose, the document will not be as comprehensive or have as much information as will ultimately be developed on the proposed plan (or subsequent subarea plans). Supplemental EISs or addenda could then be issued focusing on key issues or geographic areas identified at the prior phase, such as for a transportation element. At each phase, policy choices could be made and alternatives could be screened and assembled to assist the community in developing its proposed plan and development regulations. An integrated GMA/SEPA document could then consolidate the previous key findings, analyses and decisions for the more detailed plan.

(b) Early environmental analyses resulting in a formal SEPA document. Conversely, an agency may wait until a proposed plan or development regulation has been developed, with the benefit of preliminary environmental and other analysis, to prepare its SEPA threshold determination and a formal integrated GMA/SEPA document. In the latter case, the formal document would reflect public and technical analysis that led to the proposed plan and would summarize alternatives that were considered and screened, rather than "proposing" these alternatives. Additional public comment on the proposed GMA/SEPA document would allow for further revisions.

F. Contents of this emergency rule.

This emergency rule addresses how local governments that plan under GMA can and should take environmental factors into account in preparing and making plan decisions under GMA. This rule also guides other participants in the GMA process such as citizens, state agencies, or review bodies. The rule provides overall policies, procedures, and examples of integration, as follows:

WAC 197-11-225 Purpose, applicability and definitions, articulates an overall policy direction for integrating SEPA and GMA and explains how the rule applies to GMA decisions that are under way.

WAC 197-11-228 Overall integration procedures, provides overall procedures for achieving integration, such as joint processes and phased review.

WAC 197-11-230 Timing of an integrated GMA/SEPA process, provides procedures on the timing of SEPA compliance for proposed actions under GMA.

WAC 197-11-232 Preliminary planning and expanded scoping, provides procedures for preliminary planning and environmental analysis, including the use of expanded scoping.

WAC 197-11-235 Integrating SEPA/GMA documents, provides procedures for combining certain SEPA and GMA documents.

NEW SECTION

WAC 197-11-225 Purpose, policy, applicability and definitions. (1) "Purpose." The purpose of this emergency rule is to expressly authorize integrated compliance with SEPA and GMA so as to ensure that environmental analyses required under SEPA can occur concurrently with and as an integral part of the planning and decision making required under GMA. In order to protect and promote public safety, health and welfare, local governments need immediate relief to remove potential obstacles and provide legal support for SEPA/GMA integration.

(2) "Applicability." Jurisdictions planning under GMA may use the procedures of these rules to satisfy the requirements of SEPA for GMA actions, beginning immediately. For jurisdictions not using these procedures, nothing in these Rules is intended to jeopardize the adequacy or require the revision of any SEPA and GMA processes, analyses, or document deadlines specified in GMA.

(3) "Definitions." For purposes of SEPA:

(a) "Formal SEPA documents" mean: (i) a non-project environmental checklist/DNS; (ii) a notice of adoption with or without an addendum; (iii) an addendum; (iv) an EIS; or (vi) an integrated GMA document.

(b) "GMA" means the Growth Management Act, ch. 36.70A RCW and those statutes codified in other chapters of the Revised Code of Washington that were enacted or amended as part of 1990 1st ex.s. c 17 and 1991 sp.s c 32.

(c) "Proposed GMA Action" means a proposal for a GMA Action that has been issued for public and interagency comment and is being considered for adoption by a local legislative body at least 60 days prior to final adoption under RCW 36.70A.106. It does *not* include drafts, preliminary drafts, or other materials or processes that have been used to develop GMA documents or elements of GMA documents:

such drafts are not considered a "proposal" or "proposed action" under 197-11-055 and 406.

(d) "GMA Action" means, policies, plans and regulations adopted or amended under RCW 36.70A.210. Actions do not include preliminary determinations on the scope and content of GMA Actions, appeals of GMA Actions, actions by the Governor or by the Growth Management Hearings Boards.

(e) "Integrated GMA document" means a GMA document which contains or combines other relevant analyses including environmental analysis under SEPA.

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

NEW SECTION

WAC 197-11-228 Overall integration procedures (1) "Joint process." These rules provide full authority for GMA jurisdictions to carry out SEPA and GMA processes, analyses and documents together. Nothing in these Rules should be construed to discourage, prohibit, or conflict with integrating SEPA and GMA compliance.

(2) "Phasing and level of detail." To integrate SEPA and GMA:

(a) The appropriate scope and level of detail of environmental review should be tailored to the GMA Action being developed or considered for adoption.

(b) Jurisdictions are authorized to modify SEPA phased review as necessary to track the phasing of GMA Actions, as provided in GMA and the procedural criteria in ch. 365-195 WAC. (For example, actions of narrower scope, such as interim urban growth boundaries or development regulations, subarea plans, and plan elements may be adopted prior to GMA Actions of broader scope, such as an overall comprehensive plan revision.)

(c) The process of integrating SEPA and GMA should begin at the early stages of plan development. One purpose of an integrated GMA document (see 197-11-235) is to bring early studies together for agency and public review later in the planning and environmental review process (see 197-11-230(2) and 235). Although early planning documents and environmental analyses such as documents on concepts or plan elements may serve specific purposes and are not each required to be comprehensive in scope, they should explain their relationship to the overall GMA/SEPA process that is underway and identify how cumulative impacts are being considered in this overall process.

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

NEW SECTION

WAC 197-11-230 Timing of an integrated GMA/SEPA process. (1) "Preparation and review of SEPA documents." A formal SEPA document (which may be a draft integrated GMA document under 197-11-235):

(a) shall be prepared and issued no later than the time that a proposed GMA action is issued for public and interagency review;

(b) shall be provided: (i) to the legislative body that will consider issuing a GMA Action; and (ii) to any advisory body designated by the local legislative body or chief executive of the city or county to make a formal recommendation to the local legislative body on whether to propose a GMA Action, including Planning Commissions and citizen advisory groups. The draft document shall also be circulated as otherwise required of formal SEPA documents.

(2) "Threshold determinations." A SEPA threshold determination:

(a) may be made at any time, as long as it is early enough in the process so that the appropriate environmental document can accompany or be combined with a proposed GMA Action;

(b) shall be made early in the planning for the GMA Action if the responsible official can determine under 197-11-330 that a significant adverse environmental impact is likely to result from the implementation of the GMA action being developed;

(c) is *not* required when there has been a previous threshold determination or a notice of adoption or an addendum is prepared, except when a new threshold determination is required pursuant to 197-11-600(3).

NEW SECTION

WAC 197-11-232 Integration procedures for preliminary planning, environmental analysis, and expanded scoping. (1) Preliminary environmental analyses. As part of the planning process, GMA jurisdictions may prepare environmental analyses for use by decision makers and the public to assist in developing and reviewing preliminary drafts of GMA documents. Environmental analyses prepared for use in preliminary GMA planning:

(a) do not require a threshold determination.

(b) may be separate from, or woven into, issue papers or other agency planning materials or presentations.

(c) may use the format of SEPA documents, including a nonproject environmental checklist (Part D of 197-11-960) or addendum (197-11-706, 625), which are intended to be flexible and may be used at any time in the SEPA process.

(d) may include evaluation of issues and concerns that are not required in SEPA documents, such as economic or other factors identified in GMA, SEPA, and WAC 197-11-448.

(2) "Expanded Scoping."

(a) *Timing and use.* Expanded scoping may be used prior to a threshold determination to meet one or more of the purposes stated in 197-11-030, 225, 230, 235 and 410(2). Expanded scoping may initiate or be combined with any early GMA planning activities such as "visioning," development of alternative concepts or elements, or scoping of possible GMA Actions and studies. Scoping under 197-11-408 may also be used for these purposes if a determination of significance has been issued.

(b) *Notice.* An expanded scoping notice may be issued separately from or without a threshold determination. If so the notice should explain that SEPA determinations and documents will occur later and that scoping is starting early to assist and involve the public, tribes and agencies in formulating a specific proposed GMA Action and identifying useful environmental analyses.

NEW SECTION

WAC 197-11-235 (1) "Integrating documents." Formal SEPA documents may be prepared as companion documents to accompany proposed GMA Actions or may be integrated into the documentation of GMA Actions. This section clarifies how 197-11-640 (all SEPA documents) and 197-11-425 through 442 (EISs) apply to integrated SEPA/GMA documents. The overriding consideration is the quality of information and analysis at the appropriate scope and level of detail for the particular GMA document, and not the format, length or bulk of the document.

(2) "Document format."

(a) There is no standard format for an integrated GMA document. An integrated GMA document may look more like a GMA document with an Environmental Summary (see 197-11-235(5)), in contrast to a format described in 197-11-430. For example, for a comprehensive plan or subarea plan, the integrated document may look like a plan with an Environmental Summary in front. Any separately bound supporting documents shall be clearly identified in the integrated document.

(b) An integrated GMA document is not required to contain a separate section on affected environment, significant impacts, and mitigation measures under 197-11-440(6), as long as this information is summarized as required in this section, and the basis for this information can be readily found in the document and the supporting record.

(3) "Integrated Non-EIS documents."

(a) If a proposed GMA Action is not likely to have a significant adverse environmental impact, an integrated GMA document may be prepared that combines the formal SEPA document (such as an environmental checklist, a notice of adoption or addendum) with the GMA document. The provisions of 197-11-235 (1) and (2) apply to these integrated documents.

(b) If an environmental checklist is used, only Parts A (which serves as a fact sheet), C (responsible official's signature), and D (non-project checklist) need be prepared, plus an Environmental Summary as specified in 197-11-235(5). Part D and the Summary may be combined.

(c) If an addendum is to accompany or be incorporated into an integrated GMA document, it shall contain the information specified in 197-11-235(5) for an Environmental Summary.

(4) "Plan/EIS documents." Because these documents need to contain sufficient analysis for GMA Actions, the same documents that meet GMA planning needs should constitute the SEPA documents for GMA Actions and should provide a basis for future decisions on projects. An integrated document will constitute the necessary SEPA document, if accompanied by the following (as further specified by 197-11-235 (5)-(7) below):

- (a) Environmental Summary and fact sheet;
 - (b) concise analysis of alternatives;
 - (c) comments and responses; and
 - (d) appropriate technical and other materials.
- (5) "Environmental Summary and fact sheet."

(a) The Environmental Summary includes the contents required in 197-11-440(4). It should emphasize the major conclusions, significant areas of controversy and uncertainty, if any, and the issues to be resolved, including the environ-

mental choices to be made and the effectiveness of mitigation measures. The Summary is not to be a summary of the GMA Action.

(b) The Summary should highlight from an environmental perspective the main options that would be preserved or foreclosed by the proposed GMA Action. It should reflect SEPA's substantive policies and focus on any significant irreversible or irretrievable commitments of natural resources that would be likely to harm long term environmental productivity, taking into account cumulative impacts. A summary of the principal environmental impacts may be presented in chart or matrix form, summarizing the relevant elements of the environment and impact assessment required by 197-11-440 (6)(b)-(e). The Summary may discuss non-environmental factors and should do so if relevant to resolving issues concerning the main environmental choices facing decision makers.

(c) The Summary should be no longer than necessary (generally 15-30 pages for a plan/EIS, less for other integrated documents) and include tables or graphics to assist readability. At a minimum the Fact Sheet shall contain the information required in 197-11-440(2). The Fact Sheet shall precede the Summary in the integrated GMA document.

(6) "Alternatives analysis."

(a) This concise analysis focuses on a comparative evaluation of the environmental consequences of the principal alternative courses of action that are or have been under consideration in the GMA planning process, as provided by 197-11-440(5). The alternatives analysis shall evaluate the proposed GMA Action compared to the principal alternative concepts and plan elements or regulatory options that were considered. These alternatives may be (i) those which are actively being considered, or (ii) those considered and screened earlier as part of a public GMA planning process. This analysis allows decision makers, other agencies and the public to determine whether the proposed GMA Action can or should be revised before adoption to avoid or reduce environmental or other impacts.

(b) Descriptive material on the features of the alternatives (in contrast to comparing their impacts) should be kept to the minimum necessary to understand the comparative evaluation. If more description is necessary, it should be cited or located in the supporting record. Depending on the scope of the GMA action, the text of the alternatives analysis should be less than 40 pages.

(7) "Comments and responses." The inclusion of comments and responses is not required for a draft integrated GMA document. For a final integrated document, comments (or a summary of comments) shall be compiled and response prepared as provided in 197-11-560(3). A jurisdiction may include comments (or a summary of comments) received during the scoping process or on preliminary documents, as well as general or specific responses to these comments if any have been prepared, with the integrated GMA document on a proposed GMA Action. If this approach is not used, these preliminary comments shall be included in the supporting record.

(8) "Supporting record, analyses, and materials."

(a) The integrated GMA document shall contain a list of the principal analytical documents and other materials (such as meeting minutes, maps, models, tapes or videos) that have been prepared, received, or used in developing the GMA

Action. These materials shall be considered to be incorporated by reference under SEPA and part of the supporting record for SEPA compliance, and their contents need not be further described as required in 197-11-635. Annotated lists are encouraged, but not required, to assist current and future reviewers.

(b) Materials in the supporting record should enable agencies and members of the public to identify and review the planning basis for the conclusions and analysis presented in the integrated GMA document as provided in the "procedural criteria" for preparing plan documents.

**WSR 95-03-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 95-04—Filed January 13, 1995, 4:50 p.m.]

Date of Adoption: January 13, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order:

Repealing WAC 220-52-07300V; and amending WAC 220-52-073.

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 surplus of red sea urchins have been taken.

Effective Date of Rule: Immediately.

January 13, 1995
Bruce A. Crawford
for Robert Turner
Director

REPEALER

The following section of the Washington Administrative Code is repealed effective immediately:

WAC 220-52-07300V Sea urchins. (94-178)

**WSR 95-03-067
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE**

[Order 95-05—Filed January 17, 1995, 8:57 a.m.]

Date of Adoption: January 13, 1995.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:

Amending WAC 220-52-073.

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: There are sufficient green sea urchins available to offer one day of fishing in all state waters, and sufficient red urchins for one day of fishing in District 4. The remaining stocks are needed for allocation and propagation.

Effective Date of Rule: Immediately.

January 13, 1995
Evan S. Jacoby
for Robert Turner
Director

NEW SECTION

WAC 220-52-07300W Sea urchins—Seasons.
Notwithstanding the provisions of WAC 220-52-073, effective immediately until further notice it is unlawful to fish for or possess sea urchins taken for commercial purposes from state waters except:

(1) It is lawful to take green sea urchins from Sea Urchin Districts 1, 2, 3, 4 and Marine Fish/Shellfish Management and Catch Reporting Areas 26D and 28A on January 18, 1995. The minimum size for green sea urchins is 2.25 inches in diameter, exclusive of the spines.

(2) It is lawful to take red sea urchins from Sea Urchin District 4 on January 18, 1995. The minimum size for red sea urchins is 3.75 inches in diameter, exclusive of the spines, and the maximum size for red sea urchins is 5.25 inches in diameter, exclusive of the spines.

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

**WSR 95-03-068
EMERGENCY RULES
FISH AND WILDLIFE
COMMISSION**

[Order 95-06—Filed January 17, 1995, 9:00 a.m.]

Date of Adoption: January 13, 1995.

Purpose: To adopt WAC 232-28-24601 1995-96 Deer and elk permit hunting seasons—Muzzleloader elk permit hunts.

Citation of Existing Rules Affected by this Order:
Amending WAC 232-28-246.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: WAC 232-28-246 1995-96 Deer and elk permit hunting seasons, was adopted by the Washington Fish and Wildlife Commission on December 10, 1994, and filed as a permanent regulation on January 10, 1995, and will not become effective until February 9, 1995. This emergency regulation will supersede information

EMERGENCY

contained in WAC 232-28-246. Hunt 4001 (Mountain View C) should be deleted. Elk populations throughout the Blue Mountains are depressed. This hunt for spike bull or antlerless elk was inadvertently left in the proposed rule. The change is necessary to be consistent and to protect the elk resource on the Blue Mountains.

Effective Date of Rule: Immediately.

John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-24601 1995-96 Deer and elk permit hunting seasons—Muzzleloader elk permit hunts

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	Permit Season	Special Restrictions	Elk Tag Prefix	Boundary Description
4001	Mountain View B	Oct. 5-11	Any Bull	BM	GMU 172
4002	Mission	Oct. 5-11	Any Bull	CM	GMU 314
4003	Cle Elum A	Oct. 1-12	Either Sex	YM	ML Area 910
4004	Cle Elum B	Nov. 16-Dec. 8	Either Sex	YM	ML Area 910
4005	Umtanum B	Oct. 8-12	Either Sex	YM	GMU 342
4006	Cowiche C	Oct. 8-12	Either Sex	YM	GMU 368
4007	Stella	Nov. 22-Dec. 12	Either Sex	WM	GMU 504
4008	Boistfort B	Jan. 16-31, 1996	Antlerless Only	WM	Elk Area 054
4009	Yale	Nov. 22-Dec. 12	Either Sex	WM	GMU 554
4010	Toledo	Jan. 2-16, 1996	Antlerless Only	WM	Elk Area 029
4011	Chinook	Jan. 16- Feb. 15, 1996	Antlerless Only	WM	Elk Area 069
4012	North River	Nov. 18-Dec. 6	Antlerless Only	WM	GMU 658
4013	Elwha	Dec. 15- Jan. 15, 1996	Antlerless Only	WM	ML Area 962
4014	South Elma	Oct. 1-13	Antlerless Only	WM	Elk Area 063

EMERGENCY

WSR 95-03-004
NOTICE OF PUBLIC MEETINGS
PARKS AND RECREATION
COMMISSION

[Memorandum—December 30, 1994]

The following is the schedule for the 1995 regular meetings of the Washington State Parks and Recreation Commission.

DATE	LOCATION
January 20	Tacoma
March 10	Aberdeen
April 21	Vancouver
June 16	Anacortes
July 28	Spokane
September 15	Issaquah
October 27	Clarkston
December 8	Olympia

All commission meetings will begin at 9:00 a.m. on the day scheduled. The exact locations are yet to be determined, except for the January meeting which will be held at the Days Inn, 6802 Tacoma Mall Boulevard, Tacoma, WA 98409.

Locations for the next regular meeting will be announced at the close of each regular meeting and may also be obtained thereafter by writing to the director, Washington State Parks and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650 or by calling (206) (area code 360 after January 15, 1995) 902-8505.

In accordance with Executive Order 83-19, meeting sites will be selected which are barrier free to the greatest extent feasible. Braille or taped agenda items for the visually impaired and interpreters for those with hearing impairments will be provided if requested with adequate notice. Such requests should usually be made at least ten working days in advance of the scheduled meeting date and should be sent to the state parks address in the above paragraph.

WSR 95-03-006
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER

[Memorandum—January 4, 1995]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, January 11, 1995, at 1:30 p.m. in Room 310 of the Convention Center, 800 Convention Place, Seattle.

If you have any questions regarding this meeting, please call 447-5000.

WSR 95-03-007
NOTICE OF PUBLIC MEETINGS
GREEN RIVER
COMMUNITY COLLEGE

[Memorandum—December 30, 1994]

The board of trustees of Green River Community College will meet the third Thursday of each month as follows:

- January 19
- February 16
- March 16
- April 20
- May 18
- June 15
- July 20
- August 17
- September 21
- October 19
- November 16
- December 21

The board of trustees of Community College District No. 10 does hereby set the regular meeting dates for the board of trustees on the third Thursday of each month, commencing at 4:00 p.m., in the Board Room of the Administration Building, Green River Community College, 12401 S.E. 320th Street, Auburn, WA 98002. Notice of any change from such meeting schedule shall be published in the state register for distribution at least twenty days prior to the rescheduled meeting date.

WSR 95-03-008
NOTICE OF PUBLIC MEETINGS
OLYMPIC COLLEGE

[Memorandum—January 3, 1995]

Regular Meetings: One regular meeting of the board of trustees shall be held each month. This meeting shall be held on the fourth Tuesday of each month and begin at 7:30 p.m. in the Board Room College Service Center, Olympic College, 1600 Chester Avenue, Bremerton, WA, or at such other time and place as the board may direct from time to time and as published in the state register. The location of each meeting is available in the Office of the President, Olympic College, 1600 Chester Avenue, Bremerton, WA. The chairman of the board, with the concurrence of a majority of the members of the board, may cancel any regular meeting. All such regular meetings will be conducted in conformance with the laws of the state of Washington governing such meetings.

The regular meeting date schedule for 1995, which needs to be published in the state register for Olympic College, is as follows:

- January 24
- February 28
- March 28
- April 25
- May 23
- June 27
- July 25
- August 22
- September 26
- October 24
- November 28
- December 26

MISCELLANEOUS

WSR 95-03-009
RULES COORDINATOR
CENTRALIA COLLEGE
 [Filed January 5, 1995, 10:59 a.m.]

Stephen L. Ward, Dean of Administration, is the rules coordinator for Centralia College, District 12.

Henry P. Kirk
 President

WSR 95-03-010
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

[Memorandum—January 4, 1995]

At their regular quarterly meeting in September, the Interagency Committee for Outdoor Recreation adopted the following meeting schedule for 1995:

March 6-7	Olympia/Natural Resources Building, Room 175
July 12-14	Bellingham/Lakeway Inn
September 25-26	Olympia/Natural Resources Building, Room 172
November 27-28	Olympia/Natural Resources Building, Room 172

WSR 95-03-011
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD

[Memorandum—January 6, 1995]

HEARING AND MEETING NOTICE FOR
 JANUARY 1995
 TRANSPORTATION IMPROVEMENT BOARD
 OLYMPIA, WASHINGTON 98504-0901

Increase Subcommittee, 1:00 p.m. - 4:00 p.m., Thursday, January 26, 1995, in Olympia, at the Best Western Aladdin Motor Inn, 900 South Capitol Way, Lakeside II Room.

Legislative Subcommittee, 2:00 p.m. - 4:00 p.m., Thursday, January 26, 1995, in Olympia, at the Transportation Building, Conference Room 2F22.

Sidewalk Subcommittee, 4:00 p.m. - 5:00 p.m., Thursday, January 26, 1995, in Olympia, at the Best Western Aladdin Motor Inn, Lakeside II Room.

Work Session, 6:00 p.m., Thursday, January 26, 1995, in Olympia, at the Best Western Aladdin Motor Inn, Lakeside II Room.

TIB Hearing and Board Meeting, 9:00 a.m., Friday, January 27, 1995, in Olympia, at the Transportation Building, Commission Board Room.

Special Needs: For special accommodations or to request an auxiliary aid, please contact the TIB office at (206) 705-7300 by January 17, 1995.

The next scheduled meeting is March 24, 1995, in Lynnwood. A notice with further detail of the March meeting will be mailed March 3, 1995.

WSR 95-03-015
SHORELINE COMMUNITY COLLEGE
 [Filed January 9, 1995, 2:05 p.m.]

Annual Fiscal Year Agenda

We do not anticipate any rule making this year with significant financial implications to Shoreline Community College or any other agency.

Chuck Fields
 Vice-President
 for Student Services
 Rules Coordinator

WSR 95-03-016
NOTICE OF PUBLIC MEETINGS
SEATTLE COMMUNITY COLLEGES

[Memorandum—January 5, 1995]

The Seattle Community College District board of trustees will begin their January 10, 1995, meeting at 5:00 p.m. instead of the regular time of 6:00 p.m.

The meeting will be held at South Seattle Community College, in the President's Board Room, 6000 16th Avenue S.W., Seattle, WA 98106-1499.

WSR 95-03-017
NOTICE OF PUBLIC MEETINGS
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

[Memorandum—January 6, 1995]

Notice is hereby given that a special meeting of the Interagency Committee for Outdoor Recreation has been called, as follows:

DATE: Thursday, January 19, 1995
 TIME: 7:00 - 9:00 p.m.
 LOCATION: SeaTac Airport Large Auditorium - Door #6011
 Located on the Mezzanine Level/Main Terminal
 Staircase located behind Evergreen Airlines (EVA)
 Elevator located across from Delta Airline Ticket Counter
 AGENDA: City of Tacoma Shorelines Project-Conversion Request

This is a special meeting of the Interagency Committee for Outdoor Recreation under the Open Public Meetings Act, RCW 42.30.080. As a special meeting, no business other than the agenda item noted can be decided by the committee.

If you plan to participate or have materials for committee review, please submit information to the Interagency Committee for Outdoor Recreation no later than Monday, January 16th. This will allow time for distribution to committee members in a timely fashion.

The next regular meeting of the Interagency Committee for Outdoor Recreation remains March 6-7, 1995, at Olympia, Washington.

Interagency Committee for Outdoor Recreation public meetings are held in locations accessible to people with disabilities. Arrangements for individuals with hearing or visual impairments can be provided by contacting the Interagency Committee for Outdoor Recreation by Monday,

January 16, 1995, at (206) 902-3000 or TDD (206) 902-1996.

WSR 95-03-019
PROCLAMATION
OFFICE OF THE GOVERNOR
 [January 3, 1995]

PROCLAMATION BY THE GOVERNOR

WHEREAS, beginning December 1, 1994, a series of major storm systems with strong winds, heavy rains, unusual tidal action, and extensive flooding occurred in western Washington; and

WHEREAS, the combination of heavy rain, high tides and high freezing levels over the Olympics and Cascades pushed several main stream rivers in western Washington above flood stage; and

WHEREAS, state roads have been severely damaged by landslides, flooding and subsequent freezing temperatures; and

WHEREAS, the Department of Community, Trade and Economic Development, Emergency Management, has implemented the state's Comprehensive Emergency Management Plan; and

WHEREAS, the severity and magnitude of the destruction and damage from the flooding is beyond the normal capabilities of the state;

NOW, THEREFORE, I, Mike Lowry, Governor of the state of Washington, as a result of the aforementioned situation and under the provisions of Chapters 43.06 and 38.52 Revised Code of Washington, do hereby proclaim that a State of Emergency exists in the counties of Clallam, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Skagit, and Thurston. I hereby authorize execution of the Washington State Comprehensive Emergency Management Plan. State agencies and departments are directed to utilize state resources and do everything possible to assist affected political subdivisions in an effort to cope with the emergency. Additionally, the Department of Community, Trade and Economic Development, Emergency Management, is instructed to coordinate all state assistance to the affected areas, including the use of the Military Department and a determination of the need for federal disaster assistance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the State of Washington to be affixed at Olympia this third day of January, Nineteen Hundred Ninety-five.

Mike Lowry
 Governor Mike Lowry

BY THE GOVERNOR:

Ralph Munro
 Secretary of State

WSR 95-03-021
NOTICE OF PUBLIC MEETINGS
RENTON TECHNICAL COLLEGE
 [Memorandum—January 9, 1995]

The Renton Technical College board of trustees' regular meetings during 1995 will be held on the second Tuesday of each month except for the months of July and August. Meetings will be held at 9:00 a.m. in the Administrative Conference Room, Building I, Renton Technical College, 3000 Northeast Fourth Street, Renton, WA 98056-4195.

WSR 95-03-022
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT
 (Fire Protection Policy Board)
 [Memorandum—January 10, 1995]

FIRE PROTECTION POLICY BOARD MEETINGS AND WORK SESSIONS FOR 1995

January 18	Work Session	1 p.m. to 4 p.m.	Lacey
January 19	Full Board Meeting	9 a.m. to 12 p.m.	Lacey
March 15	Work Session	1 p.m. to 4 p.m.	Lacey
March 16	Full Board Meeting	9 a.m. to 12 p.m.	Lacey
May 23	Work Session	6 p.m. to 10 p.m.	Wenatchee
May 24	Full Board Meeting	9 a.m. to 12 p.m.	Wenatchee
July 19	Work Session	1 p.m. to 4 p.m.	Lacey
July 20	Full Board Meeting	9 a.m. to 12 p.m.	Lacey
September 20	Work Session	1 p.m. to 4 p.m.	Lacey
September 21	Full Board Meeting	9 a.m. to 12 p.m.	Lacey
November 15	Work Session	1 p.m. to 4 p.m.	Lacey
November 16	Full Board Meeting	9 a.m. to 12 p.m.	Lacey

The board meetings for January, March, July, September and November 1995 will be held at the Lacey Fire Training Station #34, 8407 Steilacoom Road, Lacey.

The May board meeting will be held at the Wenatchee Conference Center.

WSR 95-03-023
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF
GENERAL ADMINISTRATION
 (Capitol Campus Design Advisory Committee)
 [Memorandum—January 4, 1995]

Please record the following Capitol Campus Design Advisory Committee 1995 meeting dates in the Washington State Register:

Tuesday, February 21
 Tuesday, May 16
 Thursday, September 14
 Thursday, November 16

The meetings begin at 9:00 a.m. in Room 214, General Administration Building.

MISCELLANEOUS

WSR 95-03-041
RULES COORDINATOR
INTERAGENCY COMMITTEE
FOR OUTDOOR RECREATION

[Filed January 10, 1995, 4:30 p.m.]

In accordance with RCW 34.05.310, this memorandum is to inform you that the Interagency Committee for Outdoor Recreation's rules coordinator is:

Greg Lovelady, Chief
 Planning Services Division
 NRB-2 East
 P.O. Box 40917
 Olympia, WA 98504-0917
 Phone (360) 902-3005
 FAX (360) 902-3026

Laura Eckert
 Director

WSR 95-03-042
HEALTH CARE AUTHORITY

[Filed January 11, 1995, 9:10 a.m.]

1994-1995 Significant Rule-making Agenda

Approximate Proposal	Purpose of the Rule Why is this Significant	Rule(s) Mandate	Other Agencies who may have interest in the Subject of Rule(s)
1. Date			
2. Subject Area			
3. Contact/Telephone Number			
1. December 1994	Establishes eligibility criteria for state residents for enrollment in Medicare supplement coverage available through the Health Care Authority.	Legislative mandate. Health Services Act. RCW 41.05.197.	*
2. WAC 182-13-010, 182-13-020, 182-13-030, 182-13-040. Rules of the state-wide Medicare supplement plan.			
3. Elin Meyer, 923-2801			
1. June 1995	Insures compliance by the HCA and Public Employees Benefits Board (PEBB) with provisions of chapter 42.17 RCW dealing with public records, and establishes for the HCA and PEBB rules for employee benefits administration.	Legislative mandate and agency policy.	
2. WAC 182-04-010 through 182-04-040 and 182-08-010 through 182-08-300. Rewrite of the HCA administrative rules to reflect new legislation and agency policy.			
3. Elin Meyer, 923-2801			
1. March 1995	Amends PEBB eligibility rules for: (1) Enrollment by school districts and educational service districts; (2) enrollment by retirees of school districts; (3) enrollment of part-time state employees.	These changes are required by chapter 386, Laws of 1993 (SHB 1784). Statute: Chapter 41.05 RCW.	*
2. WAC 182-12-110, 182-12-111, 182-12-115, 182-12-122. Rewrite of the PEBB administrative and eligibility rules to reflect new legislation and board policy.			
3. Elin Meyer, 923-2801			
1. February 1995	Rewrite the BHP participation and administrative rules to reflect new legislation and agency policy.	Legislative mandate and agency policy.	
2. WAC 55-01-010, 55-01-020, 55-01-030, 55-01-040, 55-01-050, 55-01-060, 55-01-070. Rewrite of Basic Health Plan (BHP) WAC.			
3. Elin Meyer, 923-2801			

MISCELLANEOUS

1. June, July or August 1995 Establishes procedures for determining eligibility and distribution of funds for medical and dental services to community health clinics under section 214(3), chapter 19, Laws of 1989 1st ex. sess. Including other state general fund appropriations for medical and dental services in community health clinics since 1985. Legislative mandate.
2. WAC 246-510-001 through 246-510-400. Rewrite of the primary care WAC, including a change in the funding formula.
3. Bob Blacksmith, 923-2791

* All agencies, in that the eligibility rules will affect all state employees.

Contact/Telephone: Elin Meyer, 923-2801.

WSR 95-03-043

**NOTICE OF PUBLIC MEETINGS
WASHINGTON ECONOMIC
DEVELOPMENT FINANCE AUTHORITY**

[Memorandum—January 9, 1995]

**WASHINGTON ECONOMIC DEVELOPMENT FINANCE
AUTHORITY MEETING DATES FOR 1995**

DATE/TIME	EVENT	LOCATION
March 7 9:00 a.m.	Regular Meeting	World Trade Club Sea-Tac Airport
June 6 9:00 a.m.	Regular Meeting	World Trade Club Sea-Tac Airport
September 12 9:00 a.m.	Regular Meeting	World Trade Club Sea-Tac Airport
December 5 9:00 a.m.	Regular Meeting	World Trade Club Sea-Tac Airport

The above dates were adopted by the Washington Economic Development Finance Authority at the December 29, 1994, teleconference meeting.

WSR 95-03-051

**NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF LICENSING
(Board of Registration for Architects)**

[Memorandum—January 10, 1995]

1995 SCHEDULE OF REGULAR BOARD MEETINGS

Meeting Date	Location	Time
January 27	University of Washington Faculty Conference Room 2nd Floor, 208J, Gould Hall Seattle, Washington	9:00 a.m.
April 6	Professional Licensing Building Conference Room, 3rd Floor 2424 Bristol Court Olympia, WA	1:00 p.m.
April 7	Washington State University at Spokane 601 West 1st Avenue Spokane, WA	9:00 a.m.
May 12	Bellingham, Washington Location to be determined	9:00 a.m.

July 7	Wyndham Garden Hotel 18118 Pacific Highway South International Drive Highway 99 SeaTac, WA	9:00 a.m.
September 21-22	Red Lion at the Quay Portside Meeting Room 100 Columbia Street Vancouver, WA	9:00 a.m.
November 17	Wyndham Garden Hotel 18118 Pacific Highway South International Drive Highway 99 SeaTac, WA	9:00 a.m.

WSR 95-03-052

**RULES COORDINATOR
OFFICE OF
FINANCIAL MANAGEMENT**

[Filed January 11, 1995, 2:11 p.m.]

In accordance with RCW 34.05.310(3), I am designating Cam Dightman as the rules coordinator for the Office of Financial Management. Cam is currently our special projects coordinator and is located in OFM's Accounting and Fiscal Services Division. His address and telephone number are:

406 Legion Way S.E.
Mailstop 43127
Olympia, WA 98504-3127
664-3420

Ruta Fanning
Director

WSR 95-03-061

**NOTICE OF PUBLIC MEETINGS
HEALTH SERVICES COMMISSION**

[Memorandum—January 9, 1995]

REGULAR MEETINGS

The following is the schedule of the Washington Health Services Commission's regular meetings in 1995. All meetings will begin at 9:00 a.m. and adjourn about 5:00 p.m.

MISCELLANEOUS

Meeting dates, times, and locations are subject to change, due to unforeseen circumstances.

Day/Date/City	Facility Address
Thursday January 26, 1995 Renton	Auditorium, Medical Arts Center Valley Medical Center 4033 Talbot Road South
Friday February 24, 1995 Lacey	Worthington Conference Center St. Martin's College 5300 Pacific Avenue S.E.
Thursday March 23, 1995 Seattle	Room 108 Husky Union Building (HUB) University of Washington
Thursday April 27, 1995 Everett	Jackson Center Everett Community College 801 Wetmore Avenue
Thursday May 25, 1995 Lacey	Worthington Conference Center St. Martin's College 5300 Pacific Avenue S.E.
Thursday June 22, 1995 Vancouver	HECL Auditorium Southwest Washington Medical Center 400 N.E. Mother Joseph Way
Thursday July 27, 1995 Bellingham	St. Luke's Community Health Education Center 3333 Squalicum Parkway
Thursday August 24, 1995 Ellensburg	Theater, Samuelson Union Building Central Washington University 400 East 8th Avenue
Thursday September 28, 1995 Richland	Auditorium, Federal Building 1825 Jadwin Avenue
Friday October 27, 1995 Spokane	City County Chambers Spokane City Hall 808 West Spokane Falls Boulevard
Thursday November 16, 1995 Port Angeles	City Council Chambers Port Angeles City Hall 321 East 5th Street
Thursday December 21, 1995 Seattle	Conference Center Auditorium Providence Medical Center 500 17th Avenue

COMMISSION STAFF MEETINGS

During 1995, commission staff meetings will be held three times weekly, at least through May 1995. Staff meetings on Monday and Thursday afternoons will begin at 1:30 p.m. and will be held at the commission office located at 605 Woodland Square Loop S.E., in Lacey.

Staff meetings on Tuesday mornings will begin at 9:00 a.m. at:

The Attorney General's Conference Center, Rowsix, Building 1, 4224 Sixth Avenue S.E., in Lacey on:

- January 31
- February 7
- April 4

- April 18
- April 25
- May 2
- May 16
- May 23
- May 30
- June 20
- June 27
- July 18
- July 25
- August 1
- August 15
- August 22
- August 29
- September 5
- September 19
- September 26
- October 3
- October 17
- October 24
- October 31
- November 7
- November 21
- November 28
- December 5
- December 19

The Health Care Authority, 676 Woodland Square Loop S.E., Lacey, Third Floor, Northwest Conference Room, on:

- January 24
- February 14
- March 14
- March 28
- April 11
- May 9
- June 13
- July 11
- August 8
- September 12
- October 10
- November 14
- December 12

The Aging and Adult Services 1st Floor Training Room, 600 Woodland Square Loop S.E., Building A on:

- February 21
- February 28
- March 7
- March 21
- June 6

WSR 95-03-065
NOTICE OF PUBLIC MEETINGS
CENTRAL WASHINGTON UNIVERSITY
 [Memorandum—January 11, 1995]

The board of trustees of Central Washington University will meet at 11 a.m. on Wednesday, March 29, 1995, in the CWU SeaTac Center, 2450 South 142nd, SeaTac, WA.

MISCELLANEOUS

WSR 95-03-072
NOTICE OF PUBLIC MEETINGS
GOVERNOR'S TELECOMMUNICATIONS
POLICY COORDINATION TASK FORCE
 [Memorandum—January 17, 1995]

The Governor's Telecommunications Policy Coordination Task Force will be meeting in Olympia on January 20 and January 27 to hear testimony from the telecommunications companies that do business in Washington state.

The testimony is scheduled to begin at 3:30 p.m. on both days in Senate Hearing Room 4 in the John A. Cherberg Building on the capitol campus.

To formulate good policy for encouraging the economic development in this state, we need to fully understand how this industry will evolve, what role state, federal and local government may play in either encouraging or discouraging that growth.

The Task Force has until November 1, 1995, to make recommendations to the governor and legislature and conduct public hearings in the following months to take testimony on other issues regarding telecommunications.

For more information, contact Connie Michener at (206) 586-3687.

WSR 95-03-073
RULES COORDINATOR
TRAFFIC SAFETY COMMISSION
 [Filed January 17, 1995, 2:33 p.m.]

The rules coordinator for the Washington Traffic Safety Commission is Angie Smith, Executive Assistant, P.O. Box 40944, Olympia, WA 98504-0944.

Steve Lind
 Acting Director

WSR 95-03-079
DEPARTMENT OF ECOLOGY
 [Filed January 17, 1995, 4:35 p.m.]

PUBLIC WORKSHOP AND HEARING
DRAFT REDMOND - BEAR CREEK
GROUND WATER MANAGEMENT AREA PLAN

The Department of Ecology announces a public workshop and hearing on the draft Redmond-Bear Creek ground water management area plan. The location and time for the workshop and hearing is:

- Date: February 16, 1995
- Time: 7:00 p.m.
- Place: Redmond City Council Chambers
 Public Safety Building
 15670 N.E. 85th Street
 Redmond

The draft Redmond-Bear Creek ground water management area plan is the result of several years of work by the Redmond-Bear Creek Ground Water Advisory Committee (GWAC) and Seattle-King County Health Department. It is

a plan developed to address ground water issues in the Redmond-Bear Creek area.

The workshop will consist of a short presentation and discussion on the plan, followed by the public hearing. The public hearing is a formal process where oral comments can be given.

The hearing starts the "findings" process for this plan. In preparing findings, affected local governments assess the proposed plan, as best they can, for technical soundness, economic feasibility, and consistency with laws and regulations. Affected governments are requested to submit findings by April 16, 1995.

Findings from affected governments should be sent to:

Bill Lasby
 Drinking and Ground Water Programs
 Seattle-King County Department of Public Health
 Room 201 Smith Tower
 Seattle, WA 98104
 Phone (206) 296-4795
 FAX (206) 296-0189

Written public comments on the plan will be taken until April 16, 1995, and can be addressed or telefaxed to:

Doug Rushton
 Department of Ecology
 P.O. Box 47600
 Olympia, WA 98504-7600
 Phone (206) 407-6642
 FAX (206) 407-7162

At the end of the comment period, Seattle-King County Health consolidates comments from the governments and presents them to the GWAC. The GWAC then resolves areas of nonconcurrence, if any, and presents the plan to ecology for consideration for certification.

WSR 95-03-085
NOTICE OF PUBLIC MEETINGS
HUMAN RIGHTS COMMISSION
 [Memorandum—January 17, 1995]

The Washington State Human Rights Commission will hold its regular commission meeting on February 23-24, 1995, at the LaQuinta Inn, 1425 East 27th Street, Tacoma.

We will hold a planning and training session on Thursday, February 23, beginning at 7:00 p.m. Our regular business meeting will begin at 9:00 a.m. on Friday, February 24.

WSR 95-03-093
RULES COORDINATOR
GROWTH MANAGEMENT
HEARINGS BOARDS
 [Filed January 18, 1995, 10:58 a.m.]

This is to inform you that Pete Phillely, Central Puget Sound Growth Management Hearings Board, has been designated as our rules coordinator. His address is listed below:

MISCELLANEOUS

Pete Philley, Rules Coordinator
 Central Puget Sound Growth Management
 Hearings Board
 2329 One Union Square
 600 University Street
 Seattle, WA 98101-1129
 (206) 389-2625

Les Eldridge
 Administrative Chair

WSR 95-03-096
NOTICE OF PUBLIC MEETINGS
BOARD OF
NATURAL RESOURCES
 [Memorandum—January 17, 1995]

The Board of Natural Resources will hold a special meeting on February 2, 1995, starting at 8:00 a.m. at the Washington State Attorney General's Conference Center, RoweSix, Building One, 4224 Sixth Avenue S.E., Lacey. The meeting is scheduled to run into the evening.

The board will consider the following matters at this workshop: The habitat conservation plan including proposed alternatives, analyses, process and other issues; and tie-ins with the Olympic Experimental State Forest.

An executive session may be held. Public comment will not be taken. Final action will not be taken at this workshop.

WSR 95-03-097
NOTICE OF PUBLIC MEETINGS
BOARD OF
NATURAL RESOURCES
 [Memorandum—January 17, 1995]

The Board of Natural Resources will hold four special meetings in February 1995, to solicit public input.

On February 6 from 6:00 to 9:00 p.m., the board will hold a special meeting in Room 172, the Main Conference Room of the Natural Resources Building, 1111 Washington Street S.E., Olympia.

On February 7 from 6:00 to 9:00 p.m., the board will hold a special meeting at the Port of Seattle, Pier 69, 2711 Alaskan Way, Commission Chambers Conference Room.

On February 9 from 6:00 to 9:00 p.m., the board will hold a special meeting at Peninsula College in the Library Media Resources/Conference Room A-12, 1502 East Lauridsen Boulevard.

On February 15 from 6:00 to 9:00 p.m., the board will hold a special meeting in the Martin Luther King, Jr. Room of the Yakima Valley Community College HUB, 16th Avenue and Nob Hill Boulevard, Yakima.

Some background information will be provided to the public. The board will hear comments from the public on the proposed alternatives of the Habitat Conservation Plan and tie-ins with the Olympic Experimental State Forest. An executive session may be held.

Table of WAC Sections Affected

KEY TO TABLE

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

Symbols:

- AMD = Amendment of existing section
- A/R = Amending and recodifying a section
- DECOD = Decodification of an existing section
- NEW = New section not previously codified
- OBJEC = Notice of objection by Joint Administrative Rules Review Committee
- PREP = Preproposal comments
- RE-AD = Readoption of existing section
- RECOD = Recodification of previously codified section
- REP = Repeal of existing section
- RESCIND = Rescind previous emergency rule
- REVIEW = Review of previously adopted rule

Suffixes:

- P = Proposed action
- C = Continuance of previous proposal
- E = Emergency action
- S = Supplemental notice
- W = Withdrawal of proposed action
- No suffix means permanent action

WAC # shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

WSR # shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #		WSR #	WAC #		WSR #	WAC #		WSR #
51-20	PREP	95-03-086	220-56-19100H	REP-E	95-02-069	284-30-900	NEW-P	95-02-075
51-21	PREP	95-03-086	220-56-19100I	NEW-E	95-02-069	284-30-905	NEW-P	95-02-075
51-22	PREP	95-03-086	220-95-011	REP-P	95-03-088	284-30-910	NEW-P	95-02-075
51-24	PREP	95-03-086	220-95-013	NEW-P	95-03-088	284-30-920	NEW-P	95-02-075
51-25	PREP	95-03-086	220-95-016	REP-P	95-03-088	284-30-930	NEW-P	95-02-075
132Q-04-097	NEW	95-03-060	220-95-018	NEW-P	95-03-088	284-30-940	NEW-P	95-02-075
173-06-010	REP-P	95-03-081	220-95-021	REP-P	95-03-088	284-30-950	NEW-P	95-02-075
173-06-020	REP-P	95-03-081	220-95-022	NEW-P	95-03-088	284-54-020	AMD-W	95-03-076
173-06-030	REP-P	95-03-081	220-95-026	REP-P	95-03-088	284-54-030	AMD-W	95-03-076
173-06-040	REP-P	95-03-081	220-95-027	NEW-P	95-03-088	284-54-040	NEW-W	95-03-076
173-06-100	NEW-P	95-03-081	220-95-031	REP-P	95-03-088	284-54-170	NEW-W	95-03-076
173-06-110	NEW-P	95-03-081	220-95-032	NEW-P	95-03-088	284-54-180	NEW-W	95-03-076
173-06-120	NEW-P	95-03-081	232-12-131	AMD	95-03-034	284-54-190	NEW-W	95-03-076
173-06-130	NEW-P	95-03-081	232-12-227	AMD	95-02-070	284-54-205	NEW-W	95-03-076
173-12	PREP	95-03-080	232-28-02202	AMD	95-03-024	284-54-270	AMD-W	95-03-076
173-19-3507	AMD-P	95-03-082	232-28-02203	AMD	95-03-025	284-54-300	AMD-W	95-03-076
173-19-3514	AMD-P	95-03-078	232-28-02204	AMD	95-03-026	284-54-350	AMD-W	95-03-076
173-430-010	AMD	95-03-083	232-28-02205	AMD	95-03-027	284-87-030	AMD-P	95-02-076
173-430-020	AMD	95-03-083	232-28-02206	AMD	95-03-028	308-91-080	AMD	95-03-099
173-430-030	AMD	95-03-083	232-28-02210	AMD	95-03-029	308-91-150	AMD	95-03-099
173-430-040	AMD	95-03-083	232-28-02220	AMD	95-03-040	308-96A-450	PREP	95-02-071
173-430-050	AMD	95-03-083	232-28-02280	AMD	95-03-030	308-96A-460	PREP	95-02-071
173-430-060	AMD	95-03-083	232-28-240	AMD	95-03-031	308-96A-470	PREP	95-02-071
173-430-070	AMD	95-03-083	232-28-241	AMD	95-03-032	308-96A-480	PREP	95-02-071
173-430-080	AMD	95-03-083	232-28-24102	NEW	95-03-035	308-96A-490	PREP	95-02-071
173-430-090	NEW	95-03-083	232-28-242	AMD	95-03-033	308-124-005	AMD	95-03-012
173-430-100	NEW	95-03-083	232-28-246	NEW	95-03-036	308-124A-025	AMD	95-03-012
173-563-015	AMD	95-02-066	232-28-24601	NEW-E	95-03-068	308-124A-110	AMD	95-03-012
173-564-040	AMD	95-02-066	232-28-247	NEW	95-03-037	308-124A-420	AMD	95-03-012
182-13-010	NEW-P	95-03-063	232-28-248	NEW	95-03-038	308-124A-422	AMD	95-03-012
182-13-010	NEW-W	95-03-074	232-28-249	NEW	95-03-039	308-124A-425	AMD	95-03-012
182-13-010	NEW-P	95-03-075	232-28-61952	NEW-W	95-03-066	308-124A-590	NEW	95-03-012
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