Washington State Register

JUNE 7, 1995

OLYMPIA, WASHINGTON

ISSUE 95-11

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STATE PRINTING PLANT OLYMPIA, WASHINGTON

CITATION

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

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 June 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.

WASHINGTON STATE REGISTER

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

Raymond W. Haman
Chairman, Statute Law Committee

Dennis W. Cooper
Code Reviser

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Chief Assistant Code Reviser

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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		
For Inclusion in--	*File no later than--*			*Count 20 days from--*	*For hearing on or after*
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
95-07	Feb 22	Mar 8	Mar 22	Apr 5	Apr 25
95-08	Mar 8	Mar 22	Apr 5	Apr 19	May 9
95-09	Mar 22	Apr 5	Apr 19	May 3	May 23
95-10	Apr 5	Apr 19	May 3	May 17	Jun 6
95-11	Apr 26	May 10	May 24	Jun 7	Jun 27
95-12	May 10	May 24	Jun 7	Jun 21	Jul 11
95-13	May 24	Jun 7	Jun 21	Jul 5	Jul 25
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95-20	Sep 6	Sep 20	Oct 4	Oct 18	Nov 7
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

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

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

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

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;

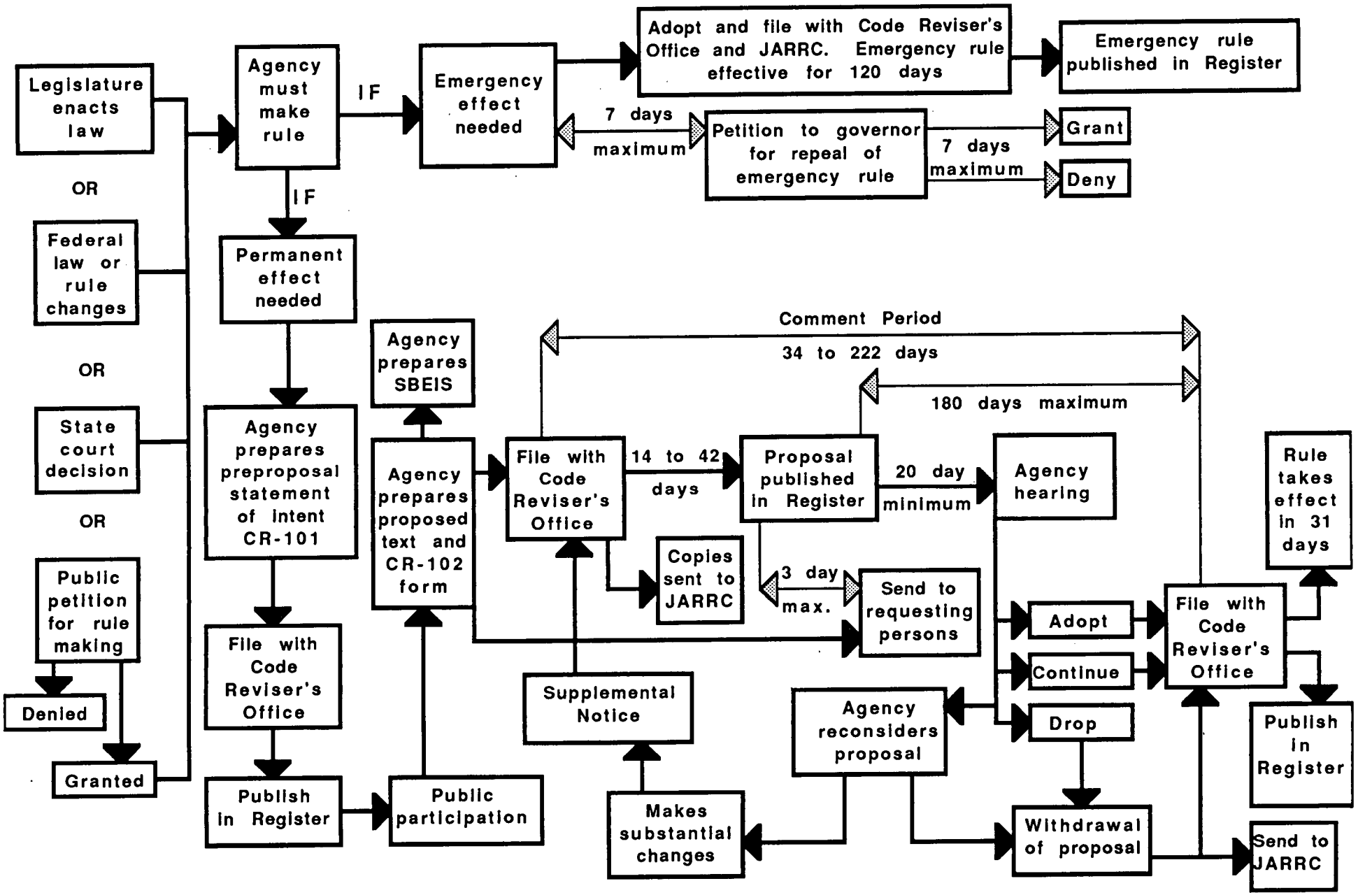
There is less than minor economic impact on business;

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 95-11-001
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Institutions)
[Filed May 3, 1995, 1:54 p.m.]

Subject of Possible Rule Making: Chapter 275-45 WAC, the juvenile offender basic training camp program.

Specific Statutory Authority for New Rule: RCW 13.40.320(4), 28 CFR Part 91, 42 USC Section 13701-13709.

Reasons Why the New Rule is Needed: Statute calls for rules for the safe and effective operation of the juvenile offender basic training camp program, standards for an offender's successful program completion, and rules for the continued after-care supervision of offenders who have successfully completed the program.

Goals of New Rule: To develop procedures of operation that meet legal requirements and enhance program management. To define the standards for an offender's successful program completion which makes them eligible for early release to the community. To provide guidelines for supervision of successful graduates of the program.

Process for Developing New Rule: Agency study; and the juvenile rehabilitation administration shall conduct an internal and external review process whereby draft material is distributed for review and comment. Comment shall be taken into consideration before final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: David Griffith, Program Administrator, Juvenile Rehabilitation Administration, P.O. Box 45720, Olympia, WA 98504, phone (360) 664-0737, FAX (360) 586-5317.

May 3, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-11-003
PREPROPOSAL STATEMENT OF INTENT
BOARD OF BOILER RULES
[Filed May 4, 1995, 10:11 a.m.]

Specific Statutory Authority for New Rule: RCW 70.79.040.

Reasons Why the New Rule is Needed: To clarify wording and make existing WACs consistent with nationally accepted codes and standards. The following WACs are to be amended: WAC 296-104-015, 296-104-020, 296-104-025, 296-104-030, 296-104-035, 296-104-040, 296-104-045, 296-104-100, 296-104-105, 296-104-110, 296-104-115, 296-104-125, 296-104-130, 296-104-135, 296-104-140, 296-104-145, and 296-104-150. WAC to be deleted: WAC 296-104-120.

Goals of New Rule: Clarification and consistency with nationally recognized codes and standards.

Process for Developing New Rule: Board of Boiler Rules study of existing rules for consistency and need for clarification.

How Interested Parties can Participate in Formulation of the New Rule: Dick Barkdoll, Chief Boiler Inspector, Secretary to the Board, P.O. Box 44410, Olympia, WA 98504-4410, phone (360) 902-5270, FAX (360) 902-5292. Board of Boiler Rules regular meetings on May 23, 1955 [1995], at 10:00 a.m., Spokane L&I Office, North 901 Monroe Street, Suite 100; and on September 12, 1995, at 10:00 a.m., Labor and Industries Building (public hearing), 7273 Linderson Way S.E., Tumwater, WA 98501.

April 4, 1995
Robert Reid
Chairman of the Board

WSR 95-11-004
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF
PUBLIC INSTRUCTION
[Filed May 4, 1995, 3:45 p.m.]

Subject of Possible Rule Making: Student learning improvement grants, amendments to RCW 28A.300.138 and the applicable WAC 392-140-500. Executive request legislation by the Office of Financial Management.

Specific Statutory Authority for New Rule: RCW 28A.300.138 as amended by Laws of 1995, SHB 1299 and/or SSB 5447 (not yet passed or signed by the governor).

Reasons Why the New Rule is Needed: Legislative changes this session as noted above appear to warrant amendments to the rules.

Goals of New Rule: To ensure grants are consistent with essential academic learning requirements; to set forth a requirement for the development and filing of a school plan to attain the learning goals and essential academic learning requirements; to provide planning assistance to schools through the Center for the Improvement of Student Learning.

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

How Interested Parties can Participate in Formulation of the New Rule: Tom Hulst, (360) 664-2534. Send written comments to the Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201, FAX (360) 753-4201, TDD (360) 664-3631.

May 3, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-11-006
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 5, 1995, 11:53 a.m.]

Subject of Possible Rule Making: Chapter 388-330 WAC, Appeal of disqualification for employment in or association with a licensed child placing agency based on background information.

Specific Statutory Authority for New Rule: RCW 74.15.030, 43.20A.205, chapter 43.43 RCW.

Reasons Why the New Rule is Needed: Persons who are disqualified by the Department of Social and Health Services from employment in child care agencies because of background information currently have no means of appeal or redress if they feel that the disqualification is unjustified (except for disqualification based on a criminal conviction).

Goals of New Rule: Would permit a person disqualified from association with a licensed child care agency to request an adjudicative proceeding relative to that matter.

Process for Developing New Rule: Negotiated rule making; agency study; and the children's administration has conducted an internal and external review process whereby draft material is distributed for review and comment. Comments shall be taken into consideration before the final rule is issued.

How Interested Parties can Participate in Formulation of the New Rule: Contact Carole Cheatle, Director of Operations, Children's Administration, P.O. Box 45710, Olympia, WA 98504-5710, (360) 664-8659, FAX (360) 586-1040.

May 5, 1995
Rosemary Carr
for Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-11-007
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 5, 1995, 11:55 a.m.]

Subject of Possible Rule Making: Amending WAC 388-218-1050 Definitions and 388-218-1510 Time-loss compensation—Lien; and repealing WAC 388-218-1515 Time-loss compensation—Unmarried parents.

Specific Statutory Authority for New Rule: RCW 74.08.090 and Social Security Act 402 (A)(38).

Reasons Why the New Rule is Needed: Clarifies WAC 388-218-1050 and 388-218-1510 language. Repeals WAC 388-218-1515 as the section is out of compliance with the mandatory filing unit rule as specified in the Social Security Act.

Goals of New Rule: Amending WAC 388-218-1050 will clarify the definition of a minor parent as a parent seventeen years of age or younger with a minor child in the home. Amending WAC 388-218-1510 and repealing WAC 388-218-1515 ensures compliance with the mandatory filing unit rule as specified in the Social Security Act (Section 402 (A)(38)).

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

How Interested Parties can Participate in Formulation of the New Rule: Contact Rena Milare, Program Manager, AFDC/Refugee Assistance Section, Division of Income Assistance, P.O. Box 45400, Lacey, WA 98504, phone (360) 438-8311 or (SCAN) 585-8311, FAX (360) 438-8258 or (SCAN) 585-8258.

May 5, 1995
Rosemary Carr
for Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-11-024
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed May 9, 1995, 10:54 a.m.]

Subject of Possible Rule Making: Budget timelines, WAC 392-123-054.

Specific Statutory Authority for New Rule: RCW 28A.505.040.

Reasons Why the New Rule is Needed: In the event that the legislature does not approve state's operating budget it allows OSPI the authority to delay the final date for school schools to submit their budgets to the ESD.

Goals of New Rule: To provide flexible [flexibility] in timelines if needed.

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

How Interested Parties can Participate in Formulation of the New Rule: Ron Stead, (360) 753-3584. Send written comments to: Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201, FAX (360) 753-4201, TDD (360) 664-3631.

May 8, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-11-053
PREPROPOSAL STATEMENT OF INTENT
LIQUOR CONTROL BOARD
[Filed May 11, 1995, 9:10 a.m.]

Subject of Possible Rule Making: Placing a limit on the quantity of samples of tobacco products which may be given by a licensed sampler to any individual.

Specific Statutory Authority for New Rule: RCW 66.08.030, 70.155.010(4), 70.155.060, and 70.155.110.

Reasons Why the New Rule is Needed: The board has received numerous complaints of what people have termed as excessive the quantity of tobacco samples given out to individuals by licensed samplers. These complaints have urged the board to regulate the quantity of such samples to wit this preproposal statement of intent has been published.

Goals of New Rule: To limit the quantity of tobacco products given as individual samples to amounts that would provide an individual with a true sample of the product rather than a supply of the product(s) that normally would need to be purchased by a regular consumer.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: Gary W. Gilbert, Chief of Enforcement, Washington State Liquor Control Board, P.O. Box 43094, Olympia, WA 98504-3094, phone (360) 586-3052, FAX (360) 664-0501. Comments, recommendations and suggestions should be received by June 19, 1995.

May 11, 1995
Joe McGavick
Chair

WSR 95-11-060
PREPROPOSAL STATEMENT OF INTENT
HIGHER EDUCATION COORDINATING BOARD
[Filed May 12, 1995, 2:58 p.m.]

Subject of Possible Rule Making: Conversion of WICHE professional student exchange program to conditional loan.

Specific Statutory Authority for New Rule: SB 5287, revising chapter 28B.80 RCW.

Reasons Why the New Rule is Needed: To implement new statutory provisions for loan conversion. Rule must specify terms for shortage area service or repayment.

Goals of New Rule: To implement SB 5287 by specifying terms of conditional loan for WICHE professional student exchange program.

Process for Developing New Rule: Negotiated rule making.

How Interested Parties can Participate in Formulation of the New Rule: By attending agency hearing on proposed rules or providing written remarks prior to hearing date.

May 10, 1995
Elson S. Floyd
Executive Director

WSR 95-11-066
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 12, 1995, 4:43 p.m.]

Replaces CR-101 dated April 10, 1995.

Subject of Possible Rule Making: WAC 388-215-1000 Summary of eligibility conditions and 388-215-1510 Cooperation with quality control.

Specific Statutory Authority for New Rule: 45 CFR 233.10 (a)(1)(ii) (B).

Reasons Why the New Rule is Needed: The department currently has no legal authority to enforce cooperation with the quality control (QC) review process. As a result, ineligible persons can continue to receive assistance because the department is unable to determine eligibility.

Goals of New Rule: Enable the department to accurately determine eligibility for aid to [families with] dependent children (AFDC) benefits.

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

How Interested Parties can Participate in Formulation of the New Rule: Contact Betty Brinkman, Program Manager, AFDC/Refugee Assistance, Division of Income Assistance, Mailstop 45400, phone (360) 438-8309 or (SCAN 585), FAX (360) 438-8258 or (SCAN 585).

May 12, 1995
Rosemary Carr
for Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-11-069
PREPROPOSAL STATEMENT OF INTENT
STATE BOARD OF EDUCATION
[Filed May 15, 1995, 11:14 a.m.]

Subject of Possible Rule Making: Chapter 180-10 WAC, Access to public records.

Specific Statutory Authority for New Rule: RCW 28A.305.010 and 28A.305.130.

Reasons Why the New Rule is Needed: Technical amendments are needed to reflect current law and practice.

Goals of New Rule: See above.

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

How Interested Parties can Participate in Formulation of the New Rule: For telephone assistance contact Dorene Mykol, (360) 753-6715. Send written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (206) 586-2357, TDD (206) 664-3631.

May 12, 1995
Larry Davis
Executive Director

WSR 95-11-072
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF HEALTH
(Board of Health)
[Filed May 15, 1995, 2:19 p.m.]

Subject of Possible Rule Making: Chapter 246-358 WAC, Temporary worker housing.

Specific Statutory Authority for New Rule: RCW 70.54.110 for Board of Health portion. RCW 43.70.340 for Department of Health rules.

Reasons Why the New Rule is Needed: RCW 70.54.110, as amended by ESSB 5503, requires the Board of Health, within sixty days of the act's effective date, to review all rules it has adopted for temporary worker housing, and modify or repeal any rules that exceed the standards developed under chapter 49.17 RCW. The act was effective upon the governor's signature on May 3, 1995. The Department of Health must change procedural rules to reflect the changes being made in the Board of Health rules and as a result of ESSB 5503.

Goals of New Rule: To implement ESSB 5503 by establishing clear and concise regulations, amending or repealing rules which exceed the standards developed under chapter 49.17 RCW, and providing for employers subject to the Migrant and Seasonal Agricultural Worker Protection Act (96 STAT. 2583; 29 U.S.C. Sec. 1801 et seq.).

Process for Developing New Rule: Due to the timelines set in the bill, the Department of Health will meet with temporary-worker housing providers from May 23 through June 1, 1995, in the cities of Okanagon, Wenatchee, Mt. Vernon, Pasco and Yakima to work on the draft rule to be presented to the Board of Health for consideration on June 14, 1995, for emergency adoption and for proposal as permanent rules. The department will send written notice of the meetings to all licensed providers and anyone who has expressed an interest in receiving such notifications.

How Interested Parties can Participate in Formulation of the New Rule: You may request additional information or submit written comments to Leslie Baldwin, Regulations Analyst, Facilities and Services Licensing, P.O. Box 47852, Olympia, WA 98504-7852, FAX (360) 705-6654, phone (360) 705-6788.

May 11, 1995
Sylvia Beck, Executive Director
Bruce Miyahara, Secretary

WSR 95-11-073
PREPROPOSAL STATEMENT OF INTENT
STATE BOARD OF EDUCATION
[Filed May 15, 1995, 4:00 p.m.]

Subject of Possible Rule Making: Remote and necessary small school plants.

Specific Statutory Authority for New Rule: Section 502 (1)(e), chapter 6, Laws of 1994 sp. sess.

Reasons Why the New Rule is Needed: Establish policies and procedures for the designation of small school plants as remote and necessary.

Goals of New Rule: Clarify unwritten policies and procedures for the designation of small school plants as remote and necessary.

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

How Interested Parties can Participate in Formulation of the New Rule: For telephone assistance contact Larry Davis, (206) 753-6715. Send written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, FAX (206) 586-2357, TDD (206) 664-3631.

May 12, 1995
Larry Davis
Executive Director

WSR 95-11-074
PREPROPOSAL STATEMENT OF INTENT
SUPERINTENDENT OF PUBLIC INSTRUCTION
[Filed May 15, 1995, 4:01 p.m.]

Subject of Possible Rule Making: Remote and necessary small school plants.

Specific Statutory Authority for New Rule: Section 502 (1)(e), chapter 6, Laws of 1994 sp. sess., RCW 28A.150.290.

Reasons Why the New Rule is Needed: Establish policies and procedures for the designation of small school plants as remote and necessary.

Goals of New Rule: Clarify unwritten policies and procedures for the designation of small school plants as remote and necessary.

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

How Interested Parties can Participate in Formulation of the New Rule: For telephone assistance please contact Larry Davis, (360) 753-6715. Send written comments to Rules Coordinator, Legal Services, P.O. Box 47200, Olympia, WA 98504-4201, FAX (360) 753-4201, TDD (360) 664-3631.

May 11, 1995
Judith A. Billings
Superintendent of
Public Instruction

WSR 95-11-077
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Medical Assistance Administration)
(Public Assistance)
[Filed May 16, 1995, 9:36 a.m.]

Subject of Possible Rule Making: WAC 388-515-1530 Coordinated community aids services alternatives (CASA) program.

Specific Statutory Authority for New Rule: RCW 74.08.090.

Reasons Why the New Rule is Needed: WAC currently allows the MNIL as a maintenance needs allowance. Manual F currently allows the special income level (SIL). This proposed amendment is to meet the original intent of the CASA waiver.

Goals of New Rule: Ensure a CASA client is allowed the appropriate maintenance needs allowance.

Process for Developing New Rule: Agency study; and the department will conduct an internal and external review and approval process. The department will consider all comments.

How Interested Parties can Participate in Formulation of the New Rule: Contact Joanie Scotson, Program Manager, Medical Assistance Administration, Mailstop 45530, P.O. Box 45530, Olympia, WA 98504-5530, phone (360) 753-7462, FAX (360) 753-7315, TDD 1-800-848-5429.

May 16, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

WSR 95-11-080
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF REVENUE
[Filed May 17, 1995, 1:36 p.m.]

Subject of Possible Rule Making: WAC 458-20-114 Nonbusiness income—Bona fide initiation fees, dues, contributions, tuition fees and endowment funds.

Specific Statutory Authority for New Rule: RCW 82.32.300, the proposal is to repeal this rule in its entirety.

Reasons Why the New Rule is Needed: It is intended that WAC 458-20-114 be repealed in its entirety. The subject matter of this rule has been or will be covered in other rules and/or excise tax bulletins. Tuition fees has been adequately covered in revised WAC 458-20-167 Educational institutions, school districts, student organizations, private schools, effective April 10, 1994. Bona fide initiation fees and dues are to be covered in WAC 458-20-183 Amusement, recreation, and physical fitness services. This rule is currently awaiting the CR-102 hearing. Contributions and endowment funds are covered in a proposed excise tax bulletin that is expected to be adopted shortly.

Goals of New Rule: The subject matter of this rule has been or will be covered in other rules and/or excise tax bulletins. Other than eliminating the standard deduction provided for nonprofit organizations who receive income in the form of initiation fees or dues, there is no intent to change the interpretation of the provisions in WAC 458-20-114 that have been or will be incorporated into other more pertinent departmental rules and/or excise tax bulletins.

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 should be submitted by the public meeting date to ensure full consideration, but will be accepted until the date of adoption. Written comments on and/or requests for copies of the rule may be directed to: Kerry J. Breen, Legislation and Policy, P.O. Box 47467, Olympia, WA 98504-7467, phone (360) 664-0087, FAX (360) 664-0693.

Location and Date of Public Meeting: General Administration Building, Director's Conference Room, Room #402, 11th and Columbia Streets, Olympia, Washington, on July 6, 1995, at 9:30 a.m.

Accommodations or assistance for persons with disabilities or to request a copy of the information in an alternate format contact: Sandra Yuen, TTY 1-800-451-7985, or (360) 753-3217.

May 17, 1995
Russell W. Brubaker
Assistant Director

WSR 95-11-084
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF LICENSING
[Filed May 18, 1995, 10:44 a.m.]

Subject of Possible Rule Making: Amendments to WAC 308-125-010(16), 308-125-020(2), 308-125-030(3), and 308-125-070(1).

Specific Statutory Authority for New Rule: RCW 18.140.030(1), 18.140.090.

Reasons Why the New Rule is Needed: Washington state currently requires 3,000 experience hours for licensure and certification as a real estate appraiser. The appraisal subcommittee of FFIEC (Title 11; 12 U.S.C. § 3301 et seq.) requires state minimums of 2,000 hours. The amendments will reflect that minimum requirement.

Goals of New Rule: Reduce the experience hours for licensure and certification as a real estate appraiser from 3,000 to 2,000.

Process for Developing New Rule: Public and industry input from previous meetings of the Real Estate Appraiser Advisory Committee; recommendations from the Appraiser Advisory Committee; published minimum requirements as authorized under Title 11, 12 U.S.C. § 3301 et seq.; and future comments via correspondence and public hearing.

How Interested Parties can Participate in Formulation of the New Rule: Contact Cleotis Borner, Jr., 2424 Bristol Court, P.O. Box 9012, Olympia, WA 98507-9012, (360) 753-1062, FAX (360) 586-0998.

May 18, 1995
Cleotis Borner, Jr.
Real Estate Appraiser
Program Manager

WSR 95-11-085
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY
[Order 95-10—Filed May 18, 1995, 11:27 a.m.]

Subject of Possible Rule Making: WAC 173-19-280 Klickitat County shoreline master program.

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: Klickitat County has requested this rule amendment to amend the Klickitat County shoreline master program.

Goals of New Rule: To adopt a shoreline master program amendment for Klickitat County to accommodate covered moorage and to make the master program consistent with other laws including the Forest Practices Act. This will amend WAC 173-19-280.

Process for Developing New Rule: This amendment was developed by a local citizen advisory committee. Public hearings will be conducted by the Klickitat County Board of Commissioners.

How Interested Parties can Participate in Formulation of the New Rule: Copies of the master program are available from Curt Dreyer, Klickitat County Planning Department, 228 West Main, Room 150, Goldendale, WA 98620, (509) 773-5703, FAX (509) 773-6206.

May 8, 1995
Linda G. Crerar
Water and Shorelands
Assistant Director

WSR 95-11-086
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY
[Order 95-05—Filed May 18, 1995, 11:29 a.m.]

Subject of Possible Rule Making: WAC 173-19-4005 City of Spokane shoreline master program.

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: The city of Spokane has requested this rule amendment to amend the city of Spokane shoreline master program.

Goals of New Rule: To adopt a shoreline master program amendment for the city of Spokane to recognize current land use, public access, open space and habitat protection trends and mandates in the city. This will amend WAC 173-19-4005.

Process for Developing New Rule: This amendment will go through interdepartmental review at the city level. Public hearings will be conducted by the city council.

How Interested Parties can Participate in Formulation of the New Rule: Copies of the master program are available from Marion Hess, Senior Planner, City of Spokane Department of Planning and Building Services, 808 West Spokane Falls Boulevard, Spokane, WA, phone (509) 625-6082, FAX (509) 625-6217.

May 8, 1995
Linda G. Crerar
Water and Shorelands
Assistant Director

WSR 95-11-087
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF ECOLOGY
[Order 95-09—Filed May 18, 1995, 11:30 a.m.]

Subject of Possible Rule Making: WAC 173-19-1202 Chelan County shoreline master program.

Specific Statutory Authority for New Rule: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Reasons Why the New Rule is Needed: Chelan County has requested this rule amendment to amend the Chelan County shoreline master program.

Goals of New Rule: To adopt a shoreline master program amendment for Chelan County to accommodate some existing nonconforming development on Chumstick Creek. This will amend WAC 173-19-120.

Process for Developing New Rule: This amendment was developed during a local amendatory process which included public hearings conducted by Chelan County Board of County Commissioners.

How Interested Parties can Participate in Formulation of the New Rule: Copies of the master program are available from Douglas A. Pineo, Ecology Eastern Regional Office, North 4601 Monroe, Suite 100, Spokane, WA 99205-1295, (509) 456-2796, FAX (509) 456-6175.

May 8, 1995
Linda G. Crerar
Water and Shorelands
Assistant Director

WSR 95-11-090
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF LICENSING
[Filed May 18, 1995, 1:44 p.m.]

Subject of Possible Rule Making: Amendment to chapter 308-330 WAC, Model traffic ordinance, to incorporate legislation enacted during the 1995 legislative session and other administrative updates.

Specific Statutory Authority for New Rule: RCW 46.90.010.

Reasons Why the New Rule is Needed: The proposed rule making will amend chapter 308-330 WAC to incorporate traffic regulations enacted by legislation.

Goals of New Rule: To maintain standard model traffic ordinance within all Washington state jurisdictions.

Process for Developing New Rule: Adoption of legislation.

How Interested Parties can Participate in Formulation of the New Rule: Jack L. Lince, Contracts Manager, Vehicle Services Division, P.O. Box 2957, Olympia, WA 98507-2957, phone (360) 902-3773, FAX (360) 664-0831, TDD (360) 664-8885.

May 18, 1995
Nancy Kelly
Administrator

WSR 95-11-095
PREPROPOSAL STATEMENT OF INTENT
ARTS COMMISSION
[Filed May 22, 1995, 1:38 p.m.]

Subject of Possible Rule Making: Title 30 WAC, Arts Commission, chapters 30-01 through 30-48 WAC.

Specific Statutory Authority for New Rule: RCW 43.46.040.

Reasons Why the New Rule is Needed: To amend, adopt, and/or delete the administrative regulations so that they are consistent with program guidelines adopted by the commission. In addition, the commission intends to make general housekeeping changes to its administrative regulations.

Goals of New Rule: The commission's primary goal is to bring its administrative regulations into compliance with its program guidelines and to make general housekeeping changes to its rules.

Process for Developing New Rule: Agency study; and over the past several years, the agency has met with constituents, held statewide town meetings, received testimony at public meetings, hired consultants for evaluation purposes and formulated program guidelines based on the results of their study. These guidelines will be adopted by the commission.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties can transmit comments by letter, FAX or phone to Karen Kamara Gose, Executive Director, 234 East 8th Avenue, P.O. Box 42675, Olympia, WA 98504-2675, phone (360) 753-3860; FAX (360) 586-5351.

June 22 [May 22], 1995
Karen Kamara Gose
Executive Director

WSR 95-11-096
PREPROPOSAL STATEMENT OF INTENT
BELLEVUE COMMUNITY COLLEGE
[Filed May 22, 1995, 1:40 p.m.]

Subject of Possible Rule Making: Hazing rules for Community College District VIII.

Specific Statutory Authority for New Rule: SSB 5075 and RCW 28B.150.140.

Reasons Why the New Rule is Needed: Hazing rules are needed at Bellevue Community College to bring the college into compliance with a new law established by the legislature in April 1993.

Goals of New Rule: Defines the act of hazing. Established appropriate penalties and sanctions for anyone who is determined to have participated in a hazing.

Process for Developing New Rule: Developed in conjunction with a system-wide committee in concert with Jan Fricelton, Assistant Attorney General, Education Division.

How Interested Parties can Participate in Formulation of the New Rule: Tomas Ybarra, Bellevue Community College, Room B231, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, (206) 641-2326, FAX 641-2230, email - tybarra@bcc.ctc.edu. Office hours are 8:00 a.m. until 5:00 p.m. Interested parties may call, write or stop by the office of obtain additional information or register an opinion about the proposed rule making.

May 18, 1995
Elise J. Erickson
Rules Coordinator

WSR 95-11-097
PREPROPOSAL STATEMENT OF INTENT
BELLEVUE COMMUNITY COLLEGE
[Filed May 22, 1995, 1:42 p.m.]

Subject of Possible Rule Making: Changes to Community College District VIII tuition and fee waivers policy.

Specific Statutory Authority for New Rule: RCW 28B.150.140.

Reasons Why the New Rule is Needed: Gives authority to the board of trustees for the district to establish or change tuition and fee waivers for specific categories of students. It will also direct students to the quarterly schedule for the most up to date information on tuitions and fee waivers. The state of Washington and the State Board for Community and Technical Colleges recently changed state rules governing fee waivers making it possible to have local authority over them.

Goals of New Rule: Provide flexibility to the college in determining tuition and fee waivers. Provide authority to the board of trustees to set or change tuition and fee waivers. Provide an avenue of appeal for students. Direct students to most recent quarterly schedule for listing of tuition and fee waivers.

Process for Developing New Rule: Developed in conjunction with the State Board for Community and Technical Colleges and other state community colleges.

How Interested Parties can Participate in Formulation of the New Rule: Don Noble, Bellevue Community College, Room B202, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, (206) 641-2451, FAX (206) 562-6163, email - dnoble@bcc.ctc.edu. Office hours are 8:00 a.m. until 5:00 p.m. Interested parties may call, write or stop by to obtain additional information or register an opinion about the proposed rule making.

May 18, 1995
Elise J. Erickson
Rules Coordinator

WSR 95-11-115
PREPROPOSAL STATEMENT OF INTENT
CODE REVISER'S OFFICE
[Filed May 24, 1995, 8:00 a.m.]

Subject of Possible Rule Making: Chapter 1-21 WAC, Rule making.

Specific Statutory Authority for New Rule: RCW 1.08.110, 34.05.310, 34.05.320, 34.05.385, 34.08.020, 34.08.030, and sections 701 and 704, chapter 403, Laws of 1995.

Reasons Why the New Rule is Needed: To implement chapter 403, Laws of 1995.

Goals of New Rule: To clarify to state agencies their obligations concerning filing notices and rules with the code reviser's office under the Administrative Procedure Act.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Interested persons may write to Kerry Radcliff, Rules Coordinator, Code Reviser's Office, P.O. Box 40551, Olympia, WA 98504-0551, FAX (360) 586-6480. Please limit FAX pages to five. All comments must be received by June 21, 1995, at 5:00 p.m.

May 19, 1995
Dennis W. Cooper
Code Reviser

WSR 95-11-117
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE
[Filed May 24, 1995, 9:44 a.m.]

Subject of Possible Rule Making: Rough bluegrass quarantine.

Specific Statutory Authority for New Rule: Chapter 15.49 RCW, Seeds.

Reasons Why the New Rule is Needed: To prevent rough bluegrass contamination of sod quality Kentucky bluegrass production in Washington state.

Goals of New Rule: To prevent introduction of rough bluegrass into major seed production areas of Washington state, to control seed stocks to be planted for further seed increase, and to assure Kentucky bluegrass seed growers of a source of seed stock for planting purposes which is tested for the presence of rough bluegrass.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: For more information contact Max Long, Plant Certification Program Manager, Washington State Department of Agriculture, 2015 South First Street, MS-3, Yakima, WA 98903.

May 22, 1995
K. Diane Dolstad
Assistant Director

WSR 95-11-126
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF AGRICULTURE
[Filed May 24, 1995, 10:20 a.m.]

Specific Statutory Authority for New Rule: RCW 15.76.180 Washington fair law.

Reasons Why the New Rule is Needed: To become eligible for allocation from the state fair fund, a fair must conduct two successful consecutive annual fairs immediately proceeding [preceding] application for allocations. This puts an unfair burden on fairs that have successfully operated as a fair in one category, but has compelling reasons to change categories.

Goals of New Rule: The new rule will allow the Northwest Washington Fair Association, which manages the Whatcom County Fair, to receive state allocations as an area fair without meeting the two year requirement to operate as an area fair to become eligible.

Process for Developing New Rule: A notice of the proposed change will be sent to all fairs participating in the fair fund. Written comments will be accepted up to the date of the public hearing.

How Interested Parties can Participate in Formulation of the New Rule: A public hearing will be set to give interested parties an opportunity to participate and comment on the proposed rule change. Walter Swenson, Agricultural Programs Administrator, Washington Department of Agriculture, P.O. Box 42560, Olympia, WA 98504-2560, phone (360) 902-1928, FAX (360) 902-2089.

May 24, 1995
William E. Brookreson
Assistant Director

WSR 95-11-128
PREPROPOSAL STATEMENT OF INTENT
EMPLOYMENT SECURITY DEPARTMENT
[Filed May 24, 1995, 11:11 a.m.]

Subject of Possible Rule Making: Add a new section to chapter 192-16 WAC and amend WAC 192-16-051 to adopt provisions related to unemployment insurance benefits for part-time community and technical college instructors. Amend WAC 192-16-002(4) to establish a method for reporting hours worked by part-time salaried employees of community and technical colleges.

Specific Statutory Authority for New Rule: RCW 50.12.010 Commissioner's duties and powers; 50.12.040 Rules and regulations; 50.20.010 Benefit eligibility conditions; and 50.12.070 Employing unit records and reports.

Reasons Why the New Rule is Needed: The 1995 legislature has amended RCW 50.44.050 and 50.44.053, modifying the definition of "academic year," setting forth the circumstances under which a quarter or semester is to be considered a part of the academic year for a particular institution, and modifying the definition of "reasonable assurance" as it pertains to continued employment of part-time faculty in community and technical colleges. WAC 192-16-051 will be amended to conform to the new definition of "reasonable assurance." The amendment to WAC 192-16-002(4) is in response to the Court of Appeals decision in *Shoreline Community College Dist. 7 vs. ESD*, which found that the number of hours reported by the school should relate to the actual number of hours worked and not be based on an arbitrary formula or agreement.

Goals of New Rule: WAC 192-16-051 will be amended to define "reasonable assurance" in a manner consistent with RCW 50.44.053, as amended. A new section will establish the "objective criteria" that will be used to determine whether a quarter or semester is to be considered a part of the academic year for a particular institution. WAC 192-16-002(4) will (a) set a maximum authorized number of hours worked for part-time faculty; (b) place a burden on the employer to report hours worked that exceed the number authorized; and (c) establish a link between the reported hours formula and the hours the employee is expected to work.

Process for Developing New Rule: The department intends to hold meetings with stakeholders, interested parties and significantly affected persons to seek their input in the formulation of final regulations. This process may include the formation of workgroups to draft particular sections of the regulations.

How Interested Parties can Participate in Formulation of the New Rule: Persons interested in attending public meetings or participating on a workgroup may contact Lee Gregory, Unemployment Insurance Division, Policy Unit, Employment Security Department, P.O. Box 9046, Olympia, WA 98507-9046, phone (360) 753-5131 or FAX (360) 753-6492.

May 24, 1995
K. Wendy Holden
Deputy Commissioner

WSR 95-11-129
PREPROPOSAL STATEMENT OF INTENT
INSURANCE COMMISSIONER'S OFFICE
[Filed May 24, 1995, 11:25 a.m.]

Subject of Possible Rule Making: Regulation of viatical settlement providers and brokers; and minimum standards for viatical settlement contracts. Insurance Commissioner Matter No. 95-2.

Specific Statutory Authority for New Rule: Chapter 161, Laws of 1995, RCW 48.02.060, and 48.30.010.

Reasons Why the New Rule is Needed: To implement chapter 161, Laws of 1995 by specifying fees and information to be submitted with applications for licensing and renewals of licenses for viatical settlement providers and viatical settlement brokers; and setting form and rate filing requirements, minimum standards for providers, brokers, disclosure, and annual statement requirements.

Goals of New Rule: To protect viators and their families by enforcing the new viatical settlement law, limiting the market to licensees, and to set minimum standards for viatical settlement contracts and disclosure by viatical settlement providers and viatical settlement brokers. To set standards for the viatical settlement industry regarding: Applications for licensing and renewal of licenses for viatical settlement providers and viatical settlement brokers, form and rate filings, annual statements, training and examination of brokers, compensation of brokers, capital requirements, bonding, confidentiality of information concerning viators, prohibitions on contacts with viators, exceptions for transfer of contracts, disclosure requirements, definition or clarification of terms, and otherwise implement chapter 161, Laws of 1995. To set the date after which no provider or broker may use a contract form which is not preapproved by the commissioner.

Process for Developing New Rule: Agency study; and written comments from interested persons concerning the possible regulation are solicited.

How Interested Parties can Participate in Formulation of the New Rule: To obtain information and to offer comments or suggestions, or to receive a copy of the possible regulation, call or write to the Office of the Insurance Commissioner, Attn: Kacy Brandeberry, P.O. Box 40255, Olympia, WA 98504-0255, (360) 664-3790, FAX (360) 586-3535, Internet address: gtaylor@win.com, TDD (360) 586-0691.

May 24, 1995
Krishna Fells
Chief of Staff

WSR 95-11-130
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF GENERAL ADMINISTRATION
[Filed May 24, 1995, 11:33 a.m.]

Subject of Possible Rule Making: Chapter 236-12 WAC, State capitol grounds traffic and parking regulations. Increase the monetary penalty for parking a motor vehicle without a valid license plate or placard in parking reserved for physically disabled to $175.

Specific Statutory Authority for New Rule: RCW 46.08.150, as amended during the 1995 legislative session in ESB 5873.

Reasons Why the New Rule is Needed: RCW 46.08.150, as amended, mandates an increase in the monetary penalty for parking in a space reserved for physically disabled without the proper license plate or placard to $175. Chapter 236-12 WAC must be amended to come into compliance with the legislation.

Goals of New Rule: To bring chapter 236-12 WAC into compliance with RCW 46.08.150, as amended. Addresses will be corrected and several definitions added for clarity.

Process for Developing New Rule: The public may comment in writing or orally at a public hearing in July 1995. Department staff will propose language to comply with legislation.

How Interested Parties can Participate in Formulation of the New Rule: Interested persons may write to J. Duncan Crump, Manager, Office of Parking Services, P.O. Box 41025, Olympia, WA 98504-1025. Letters must be received by close of business, July 12, 1995.

May 23, 1995
Tim Arnold
Assistant Director
Division of Transportation Services

WSR 95-11-131
PREPROPOSAL STATEMENT OF INTENT
DEPARTMENT OF GENERAL ADMINISTRATION
[Filed May 24, 1995, 11:34 a.m.]

Subject of Possible Rule Making: Chapter 236-15 WAC, Parking program for state facilities off the state capitol grounds in Thurston County. The department is considering repeal of the WAC.

Specific Statutory Authority for New Rule: Chapter 43.01 RCW and RCW 46.08.172, as amended by SSB 5084 during the 1995 legislative session.

Reasons Why the New Rule is Needed: Chapter 236-15 WAC would implement parking fees established by the Department of General Administration at state facilities in Thurston County. New legislation transfers the authority to establish parking fees at state facilities off the state capitol campus from general administration to the various state agencies. Chapter 236-15 WAC repeals parking fees set by general administration and allows agencies to determine whether or not to establish parking fees.

Goals of New Rule: To transfer authority for setting parking fees at state facilities from general administration to the various state agencies.

Process for Developing New Rule: General administration will propose repeal of chapter 236-15 WAC. The public may comment in writing or orally at a public hearing to be scheduled in July 1995.

How Interested Parties can Participate in Formulation of the New Rule: Interested parties may write to J. Duncan Crump, Manager, Office of Parking Services, P.O. Box 41025, Olympia, WA 98504-1025. Letters must be received by close of business, July 11, 1995.

May 23, 1995
Tim E. Arnold
Assistant Director
Division of Transportation Services

WSR 95-11-133
PREPROPOSAL STATEMENT OF INTENT
OFFICE OF THE SECRETARY OF STATE
[Filed May 24, 1995, 11:40 a.m.]

Subject of Possible Rule Making: Limited liability partnerships.

Specific Statutory Authority for New Rule: RCW 43.07.120.

Reasons Why the New Rule is Needed: Implementation of chapter 337, Laws of 1995.

Goals of New Rule: Provide administrative procedures for filings required from limited liability partnerships that are consistent with those for other partnerships and for corporations.

Process for Developing New Rule: Agency study, these rules cover primarily administrative aspects of filings by limited liability partnerships and are intended to be as similar as possible to other rules governing filings with the corporations division. As a result, suggested language for these procedures accompanies this notice. This draft material is only provided to assist persons who wish to comment on this subject and is not intended to replace the proposed rules which will accompany the subsequent CR-102.

How Interested Parties can Participate in Formulation of the New Rule: Contact Karen Dick, Operations Manager, Corporations Division, P.O. Box 40234, Olympia, WA 98504-0234, (360) 586-6782 or (360) 684-3213.

May 24, 1995
Donald F. Whiting
Assistant Secretary of State

Chapter 434-135 WAC
LIMITED LIABILITY PARTNERSHIPS

NEW SECTION

WAC 434-135-010 Purpose and authority. These rules are adopted under authority of chapter 25.04 RCW, the Washington Limited Liability Partnership Act.

NEW SECTION

WAC 434-135-020 Official address and telephone number. (1) The address for all correspondence is the Corporations Division, Office of the Secretary of State, P.O. Box 40234, Olympia, Washington, 98504-0234.

(2) In-person transactions may be made at the Corporations Division Office, 505 East Union, Second Floor, Olympia, Washington. There is an expedited in-person fee of twenty dollars for single or multiple transactions within each filing.

(3) The telephone number is (360) 753-7115 or (360) 753-7120. Callers will hear a menu of five prerecorded messages. For direct access to an information officer press number five at the beginning of the recorded message.

NEW SECTION

WAC 434-135-030 Office hours. (1) Business hours of the corporations division are 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. Over-the-counter service is available to provide same-day service for individual requests brought in before 4:00 pm. and telephone service is available from 8:00 a.m. to 5:00 p.m.

(2) Documents delivered after normal working hours will be deemed to be received on the next working day. The secretary assumes no responsibility for any form of delivery other than that received personally by an employee of the office of the secretary of state.

NEW SECTION

WAC 434-135-040 Telephone services. (1) The telephone numbers of the corporations information unit are (360) 753-7115 and (360) 753-7120, which are open from 8:00 a.m. to 5:00 p.m. Information on limited liability partnerships and on filing a document relating to new limited liability partnership which is available at this number includes the following:

(a) Exact name of limited liability partnership on file in the secretary of state's records;
(b) Unified business identifier (UBI) number;
(c) Date registered on the secretary of state's records;
(d) Expiration date of registration;
(e) Name of registered agent;
(f) Scheduled dissolution date (if any);
(g) Registered office address;
(h) Status of limited liability partnership;
(i) Filing date of most recent annual notice;
(j) Number of partners;
(k) State of registration;
(l) Principal office address;
(m) Requirements for filing documents with the secretary of state's office.

(2) Customers may also request that forms be mailed to them by using the menu system and pressing one (1).

NEW SECTION

WAC 434-135-050 Filing requirements. (1) Duplicate copies of any documents to be registered under this chapter shall be submitted to the secretary of state. One copy must bear an original signature. The second copy may be signed with an original signature, photocopied, or be a conformed copy.

(2) Document must contain the requirements of this chapter. It may contain other information as well.

(3) All documents shall be of no larger size than standard legal paper (8 1/2 x 14). The documents shall be submitted in form and quality which is suitable for photocopying, microfilming, or reproduction by a similar photographic process. Documents must be typed or printed in ink legibly.

NEW SECTION

WAC 434-135-060 Execution of document. (1) Documents submitted for filing to the secretary of state must be executed by:

(a) A majority in interest of the partners; or
(b) One or more partners.

(2) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary; or

(3) An attorney-in-fact.

The person(s) executing the documents shall print or type beneath or beside their signature their name and title indicating in what capacity they are signing.

NEW SECTION

WAC 434-135-070 Filing duty of secretary of state. (1) If the secretary of state determines that the documents conform to the filing provisions of this chapter and all required filing fees have been paid, he or she shall:

(a) Endorse each signed original and duplicate copy the word "filed" and the date of its acceptance.

(b) Retain the signed original as the official copy in the secretary of state's files.

(c) Return the duplicate original to the person who registered it or the person's representative.

(2) If the secretary of state refuses to file a document under this chapter the secretary of state shall return it to the domestic or foreign limited liability company or its representative stating the reason(s).

(3) The duties of the secretary of state in filing documents under this chapter are ministerial in duty.

NEW SECTION

WAC 434-135-080 Filed date. Documents received that conform to the requirements of this chapter shall be registered as of the date of receipt in the secretary of state's office. If the secretary of state is unable to process the documents immediately upon receipt, the documents shall be dated as of the date of receipt when processed.

NEW SECTION

WAC 434-135-090 Annual notice—Due date—Whom notified. Each limited liability partnership shall file an annual notice by the last day of the month of its original registration as a limited liability partnership. The corporations division shall notify all limited liability partnerships of its annual notice date forty-five days in advance by mailing to the registered agent in care of the registered office address listed on the records of the secretary of state the annual notice form. Failure to receive an annual notice form is insufficient reason for failure to file the statutory required annual notice.

NEW SECTION

WAC 434-135-100 Registered office address and registered agent. (1) Each limited liability partnership shall continuously maintain in this state:

(a) A registered office that may be the same as any of its places of business. The registered office shall be at a specific geographical location in this state, and be identified by number, if any, and street, or building address or rural route. A post office box address may be used in conjunction with a registered geographic office address for mailing purposes when:

(i) The United States Postal Service cannot or will not deliver to the street address; and

(ii) The post office box address is in the same Washington city or town as the registered office address; and

(iii) The agent notifies the office of the secretary of state and the limited liability partnership of any changes in either the street address or the post office box address.

(b) A registered agent that may be:

(i) An individual residing in this state whose business office is identical with the registered office; or

(ii) A domestic corporation, limited partnership, limited liability company or limited liability partnership whose business address is identical with the registered office; or

(iii) A foreign corporation, limited partnership, limited liability company or limited liability partnership authorized to do business in this state whose business address is identical with the registered office.

(2) A registered agent shall not be appointed without having given prior written consent to the appointment. This written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with the secretary as part of the first document appointing a registered agent.

(3) A registered agent may change the address of the registered office address of the domestic or foreign limited liability company to another address in this state by filing with the secretary of state an amended notice, executed by such registered agent, setting forth the name of the limited liability partnership and the current address of the registered office address and the new registered office address which meets the requirements of WAC xxx-xxx-xxx.

(4) A registered agent of a domestic or foreign limited liability partnership may be changed by filing an amended notice indicating the name of the limited liability partnership, the name of the current registered agent and the name of the new registered agent and their written consent to appointment. The amended notice shall be signed by a majority of partners in interest or one or more authorized partners.

(5) A registered agent may resign by delivering to the secretary of state a signed statement to that effect listing the name of the limited liability company and the purpose of the statement being that the registered agent is resigning. The statement may also include a statement that the registered office is also discontinued. After filing the statement, the secretary of state shall mail a copy of the statement to the limited liability partnership at its principal office.

NEW SECTION

WAC 434-135-110 Service of process. (1) A limited liability partnership's registered agent is the limited liability partnership's agent for service of process, notice or demand required or permitted to be filed by law. The secretary of state shall be an agent of the limited liability partnership upon whom any such service of process, notice or demand may be served if:

(a) The limited liability partnership fails to appoint or maintain a registered agent in this state; or

(b) The registered agent cannot with reasonable diligence be found at the registered office address.

(2) Service on the secretary of state of any such service of process, notice or demand shall be made by delivering to the secretary of state, or with any duly authorized staff member of the corporations division of the secretary of state. If such service of process, notice or demand is served on the secretary of state, the secretary of state shall immediately

forward a copy to the limited liability partnership in care of the principal place of business as shown on the records of the secretary of state by certified mail. Any such service made on the secretary of state shall be returnable in not less than thirty days.

(a) The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section and shall record the date of such service and the action taken.

(b) This section does not limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a limited liability partnership in any other manner now or hereafter permitted by law.

NEW SECTION

WAC 434-135-120 Limited liability partnership name. (1) Must contain as the last word or letters of its name "limited liability partnership," "L.L.P.," or "LLP";

(2) Must be distinguishable on the records of the secretary of state from:

(a) A corporate name of a corporation incorporated or authorized to transact business or conduct affairs in this state;

(b) A corporate name reserved or registered;

(c) A limited partnership name reserved or registered;

(d) A limited partnership name formed or registered in this state;

(e) A limited liability company name reserved or registered;

(f) A limited liability company name formed or registered in this state;

(g) A limited liability partnership name reserved or registered;

(h) A limited liability partnership name formed or registered in this state.

(3) Must not contain any of the following words or phrases: Bank, banking, banker, trust, cooperative, or any combination of the words industrial and loan or any combination of any two or more of the words building, savings, loan, home, association, and society or any other words prohibited by any statute of the state;

(4) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation of the designation, under subsection (2) of this section;

(b) The addition or deletion of an article or conjunction such as the or and from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of an abbreviation or the plural form of a word in the same name.

NEW SECTION

WAC 434-135-130 Reservation of name. (1) A person may reserve the exclusive use of a limited liability partnership name by delivering to the secretary of state an application for filing. The application shall include the proposed limited liability partnership name to be reserved and the name and address of the person wishing to reserve the name. If the name is available on the records of the secretary of state, the name shall be reserved for a nonrenewable one hundred eighty-day period.

(2) A person may transfer a reserved limited liability partnership name by filing with the secretary of state a notice listing the reserved name, the person transferring the name and the name and address of the transferee.

NEW SECTION

WAC 434-135-140 Registration of name. A foreign limited liability company may register its name by filing with the secretary of state.

NEW SECTION

WAC 434-135-150 Initial registration—Form of content. (1) Any domestic or foreign limited liability partnership registering under this chapter shall file its registration on the form provided by the secretary of state. The information that shall be provided is:

(a) The name of the limited liability partnership;

(b) A statement of whether the limited liability partnership is a Washington entity or was formed and is existing under the laws of another jurisdiction. If so, the state or country of registration and the date of registration in the home jurisdiction;

(c) Principal office of the limited liability partnership in Washington or if no principal office is located in this state, the registered office address;

(d) Address of the registered office;

(e) Name of the registered agent and their written consent to appointment;

(f) Number of partners of the limited liability partnership;

(g) Brief statement of the business in which the partnership engages;

(h) That the partnership thereby applies for status as a limited liability partnership; and

(i) Any other matters the partnership determines to include.

(2) Application shall be executed by a majority in interest of the partners or one or more authorized partners.

NEW SECTION

WAC 434-135-160 Annual notice—Form of content. Any limited liability partnership filing under this chapter shall file its annual notice on the form provided by the secretary of state. The information that shall be filed on the annual notice is as follows:

Section 1.

(a) Limited liability partnership name;

(b) Registered agent and office address currently on file with the corporations division;

(c) Unified business identification number;

(d) Internal account number;

(e) State of registration;

(f) Date registered in Washington;

Section 2. If there has been a change in registered agent or registered office address and the new agent's signature signifying acceptance of the appointment or the new address;

Section 3.

(a) Address of principal place of business in Washington or, if the limited liability partnership's principal place of business is not located in this state, the principal office address, wherever located;

(b) Limited liability partnership telephone number;

(c) A brief statement of nature of business;

(d) Number of partners; and

Section 4. Signature of either a majority in interest of the partners or one or more authorized partners. The registration application shall include beneath or beside the signature the name and title of the person(s) signing the document.

NEW SECTION

WAC 434-135-170 Amended notice—Form of content. (1) A limited liability partnership may file an amended notice to notify the secretary of state of any material changes on the application or annual notice. These changes may include the following:

(a) Change of limited liability partnership name;

(b) Change of principal office address;

(c) Change of registered agent or registered office address;

(d) Change in the number of partners;

(e) Change in the type of business the partnership engages; or

(f) The addition of any information the partnership determines to include.

(2) The amended notice must be signed by a majority of interest of the partners or by one or more authorized partners. The amended notice shall include beneath or beside the signature the printed name and title of the person(s) signing the document.

NEW SECTION

WAC 434-135-180 Public record—Issuance of certificates. (1) All information on file in the secretary of state's office is public record;

(2) Any person may apply to the secretary of state's office for a certificate of existence for a limited liability partnership. Issuance of this certificate by the secretary of state's office means that as of the date of the certificate:

(a) The domestic or foreign limited liability partnership is duly registered under the laws of this state;

(b) All fees and penalties owed to the state have been paid; and

(c) No notice of withdrawal has been filed.

(3) The secretary of state may issue a certificate relating to any fact of record.

NEW SECTION

WAC 434-135-190 Filing fees. For Washington registered domestic and foreign limited liability partnerships, fees are as follows:

(1) Application for registration, both domestic and foreign, one hundred seventy-five dollars;

(2) Amended notice, both domestic and foreign, thirty dollars;

(3) Annual notice with required information, fifty dollars;

(4) Annual notice with required information filed after due date and before administrative dissolution, penalty fee of twenty-five dollars, plus the notice fee of fifty dollars;

(5) Resignation of registered agent, twenty dollars;

(6) Registered agent's consent to appointment to act as agent or agent's resignation if appointed without consent, no fee;

(7) Voluntary withdrawal, administrative dissolution or dissolution by judicial decree, no fee;

(8) Service of process, per defendant, fifty dollars;

(9) Reservation of name, thirty dollars; and

(10) Any other statement or form, ten dollars.

WSR 95-11-134
PREPROPOSAL STATEMENT OF INTENT
OFFICE OF THE SECRETARY OF STATE
[Filed May 24, 1995, 11:41 a.m.]

Subject of Possible Rule Making: Expedited service fees and hours of service.

Specific Statutory Authority for New Rule: RCW 43.07.120.

Reasons Why the New Rule is Needed: Make fees and hours of service consistent for all filings.

Goals of New Rule: Make in-person and expedited service fees and hours consistent for filing with the corporations division.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Contact Karen Dick, Operations Manager, Corporations Division, P.O. Box 40234, Olympia, WA 98504-0234, (360) 586-6782 or FAX (360) 684-3213.

May 24, 1995
Donald F. Whiting
Assistant Secretary of State

WSR 95-11-136
PREPROPOSAL STATEMENT OF INTENT
PIERCE COLLEGE
[Filed May 24, 1995, 11:46 a.m.]

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

Reasons Why the New Rule is Needed: Repeal of chapter 132K-120 WAC, Student publications code of the associated students of Pierce College is needed because it no longer reflects the student structure at the Ft. Steilacoom and Puyallup campuses.

Goals of New Rule: To repeal chapter 132K-120 WAC.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Dr. Thelma White, Executive Dean of Student Services, Pierce College, 9401 Farwest Drive W.S., Tacoma, WA 98498, phone (206) 964-6584, FAX (206) 964-6599.

May 23, 1995
George A. Delaney
President

WSR 95-11-137
PREPROPOSAL STATEMENT OF INTENT
PIERCE COLLEGE
[Filed May 24, 1995, 11:47 a.m.]

Specific Statutory Authority for New Rule: Chapter 34.05 RCW and RCW 28B.50.140.

Reasons Why the New Rule is Needed: Under advice of the Washington State Attorney General, establishment of this WAC is required. WAC 132K-130-010 Tuition and fee waivers.

Goals of New Rule: To establish parameters for tuition and fee levels at state community colleges mandated by chapter 28B.15 RCW and set by the legislature each biennium.

Process for Developing New Rule: Agency study.

How Interested Parties can Participate in Formulation of the New Rule: Mr. Alan Spence, Executive Dean of Administrative Services, Pierce College, 9401 Farwest Drive S.W., Tacoma, WA 98498, phone (206) 964-6506, FAX (206) 964-6599.

May 23, 1995
George A. Delaney
President

WSR 95-11-005
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 5, 1995, 11:52 a.m.]

Original Notice.

Title of Rule: WAC 388-15-900 Authority, 388-15-905 Assisted living services, 388-15-910 Definitions, 388-15-915 Facility, structural requirements, 388-15-920 Service requirements, 388-15-925 External or additional services coordinated by the contractor, 388-15-935 Contract application process, 388-15-940 Change of parties to the contract, 388-15-945 Client eligibility, 388-15-950 Relocation criteria, and 388-15-955 Assisted living services contract payment procedures.

Purpose: Establishes in rule the contract requirements for assisted living services provided to Medicaid-eligible residents in licensed boarding homes.

Statutory Authority for Adoption: RCW 74.39A.010.

Statute Being Implemented: RCW 74.39A.010.

Summary: Ensures that assisted living services provided in licensed boarding homes and purchased by the Department of Social and Health Services under contract are consistent with legislative intent and requirements under chapter 74.39A RCW.

Reasons Supporting Proposal: Directed by SHB 2098, chapter 508, Laws of 1993, RCW 74.39A.010 to develop contract rules for assisted living services provided to Medicaid-eligible residents in licensed boarding homes.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Johnson, Aging and Adult Services - Residential Care, 493-2626.

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. The regulations were carefully drafted to be cost neutral for assisted living providers that contract with the department to accept Medicaid-eligible residents. Current contractors have been providing the services for two years pending the development of regulations. The regulations follow what is in the current contract. These rules will not economically impact small businesses.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by June 13, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting 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 June 20, 1995.

Date of Intended Adoption: June 28, 1995.

May 5, 1995
Rosemary Carr
for Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

PROPOSED

ASSISTED LIVING SERVICES

NEW SECTION

WAC 388-15-900 Authority. The following rules are adopted under chapter 74.39A RCW, Long-term care services options.

NEW SECTION

WAC 388-15-905 Assisted living services. The rules in this chapter apply only to boarding homes licensed under chapter 18.20 RCW, or boarding homes located within the boundaries of a federally recognized Indian reservation and licensed by a tribe, that contract with the department to provide assisted living services to Medicaid-eligible residents.

NEW SECTION

WAC 388-15-910 Definitions. The terms used in this chapter shall have the same meaning as those in chapters 18.20, 70.129, and 74.39A RCW, and chapter 246-316 WAC, except as stated below.

(1) "Aging in place" means the process by which a person chooses to remain in his or her living environment despite the physical or mental decline that may occur with the aging process. For aging in place to occur, needed services are added, increased, or adjusted to compensate for the physical, or mental decline of the person. Services added may not exceed those allowed under chapter 246-316 WAC.

(2) "Assisted living services" means a combination of housing, health services, and assistance with personal care provided by a licensed boarding home in accordance with the assisted living services contract. The boarding home having an assisted living services contract shall design and provide services in response to each resident's individual needs and choices based on assisted living values.

(3) "Assisted living values" means providing services in a home-like setting which promotes the individual resident's privacy, dignity, choice, independence, individuality, and decision-making ability. Assisted living values promote the concept of "aging in place."

(4) "Boarding home" as defined under RCW 18.20.-020(2).

(5) "Contractor" means an individual, partnership, corporation or other entity which contracts with the department to provide assisted living services to Medicaid-eligible residents in a licensed boarding home.

(6) "Choice" means viable options created for a resident to enable the resident to exercise greater control over the resident's life.

(7) "Department" means the Washington state department of social and health services (DSHS).

(8) "Dignity" means providing support in such a way as to validate the self-worth of a resident. Dignity is supported

by designing a structure which allows personal assistance to be provided in privacy, and the delivering of services in a manner which shows courtesy and respect for a resident's right to make a decision.

(9) "Home-like" means an environment which creates an atmosphere supportive of the resident's preferred lifestyle. Home-like is supported by encouraging the resident to use his or her own personal belongings.

(10) "Independence" means supporting the resident's capabilities and facilitating the use of the resident's abilities.

(11) "Individuality" means recognizing variability in a resident's individual needs and preferences, and having flexibility to organize services in response to these needs and preferences.

(12) "Managed risk" means balancing the resident's choice for independence against the safety of the resident and other persons in the facility. If the resident's decision or preference leads to adverse consequences and places the resident or others at risk, a formal plan is negotiated to decrease the probability of a poor outcome.

(13) "Negotiated service agreement" means a written plan of services developed with the resident and/or significant others and includes recognition for the resident's capabilities and choices. The plan defines the division of responsibility in the implementation of the services and specifies measurable goals.

(14) "New facility" means a new building, or addition to a licensed boarding home, or change in use of an existing building to a licensed boarding home, for which plans were submitted for construction review under WAC 246-316-070 after the effective date of this chapter.

(15) "Privacy" means a specific area and/or time over which the resident maintains a large degree of control. Privacy is supported by designing living space which is not shared, except by personal choice, with others.

(16) "Services" means activities which help a resident develop appropriate skills to increase or maintain his or her level of most independent psycho-social and physical functioning, or assist the resident in activities of daily living.

(17) "Unit" means a resident living area that is a private apartment space, including living and sleeping space, kitchen area, bathroom, and storage areas.

NEW SECTION

WAC 388-15-915 Facility structural requirements. (1) A boarding home with an assisted living services contract shall provide each resident with an individual unit that consists of at least the following:

(a) In an existing facility, an individual unit with a minimum of one hundred eighty square feet, excluding the bathroom. In a new facility, an individual unit with a minimum of two hundred twenty square feet, excluding the bathroom;

(b) A separate bathroom, including a sink, a shower/bathtub, and a toilet;

(c) A locking entry door;

(d) A kitchen area, equipped at a minimum with a microwave oven, stove-top or other cooking appliance, and a refrigerator; and

(e) A living area wired for telephone and, where available in the geographic location, wired for television service.

(2) The contractor shall provide a private accessible mailbox that meets postal standards in which a resident may send or receive mail.

(3) A contractor may request an exception to subsections (1)(c), (d), (e), and (2) of this subsection for a facility constructed before the adoption of these regulations as follows:

(a) A contractor may submit a request for facility-wide exception to the director for residential care services, aging and adult services administration.

(b) A contractor may submit a request for exception for an individual resident to the department's case manager.

(c) For all exceptions, the contractor shall describe, in writing, that the exception:

(i) Is in accordance with the special needs and choices of the resident;

(ii) Will not adversely affect any resident's health and safety; or

(iii) Meets applicable local codes in conflict with contract requirements.

NEW SECTION

WAC 388-15-920 Service requirements. (1) The contractor shall provide a resident services in a manner which promotes:

(a) Assisted living values;

(b) An environment that allows residents to age in place; and

(c) Compliance with resident rights as set forth under chapter 70.129 RCW.

(2) In addition to the individual resident's plan completed before or upon move-in, the contractor shall complete a negotiated service agreement, based on the resident's needs and choices within thirty days of move-in. The contractor shall include the following persons in the development of the negotiated service agreement:

(a) The resident and/or the surrogate decision maker;

(b) Facility staff;

(c) The department's case manager; and

(d) If the resident chooses, the resident's family or support system.

(3) The negotiated service agreement shall address, at a minimum, the following elements:

(a) Assessed needs and preferences, personal care tasks, limited nursing services, and medication services, including frequency of service and level of assistance;

(b) Resident's and department case manager's signature and approval of the agreement; and

(c) Date the agreement was approved, and the date the agreement will be reviewed.

(4) The contractor shall provide the resident a copy of the agreement, and place a copy in the resident's record.

(5) The contractor, resident and/or the resident's surrogate decision maker, and department's case manager shall regularly review and evaluate the resident's service needs, which may not exceed those services allowed under chapter 246-316 WAC. The agreement shall be updated when there are changes in the services the resident needs and

agrees to receive. At a minimum, the negotiated service agreement shall be renegotiated annually.

(6) The contractor shall provide sufficient staff to meet the limited nursing service needs of a resident who requires daily nursing services. The contractor shall provide or arrange for the provision of limited nursing services according to WAC 246-316-265.

(7) The contractor shall allow the resident to obtain additional health care services, as provided under WAC 246-316-268.

(8) The contractor shall provide personal care services in accordance with chapter 246-316 WAC, based on the resident's negotiated service agreement as described in WAC 388-15-820 (4) and (6) and further defined in WAC 388-15-202.

(9) The contractor shall provide service coordination for residents and monitor the quality of services provided. Service coordination includes providing services or arranging for community-based services.

(10) The contractor shall encourage:

(a) Residents and the resident council to participate in the development of a recreation and activity program that reflects the needs and choices of the residents;

(b) The resident council to participate in providing input to the facility about residents' preferences for food choices. The contractor shall ensure the menu preparation reflects nutritional recommended daily allowance (RDA) in accordance with WAC 246-316-170 and choices of the residents.

(11) The contractor shall retain a unit for a resident hospitalized or temporarily placed in a nursing home for up to thirty days who is likely to return. If notified prior to thirty days by the attending medical personnel that the resident will not be able to return to the residence, the facility may discharge the resident.

NEW SECTION

WAC 388-15-925 External or additional services coordinated by the contractor. The contractor shall coordinate and monitor services not covered by the assisted living services contract as needed to assist residents to maintain as much independence as possible. This does not include services listed under WAC 248-316-268.

NEW SECTION

WAC 388-15-935 Contract application process. (1) A contract applicant wanting to provide assisted living services shall:

(a) Complete and submit a contract application on department provided forms at least sixty days before the contract's requested effective date;

(b) Have a valid boarding home license for the facility at which the assisted living services will be provided before the department approves the contract;

(c) Include information regarding any facilities the applicant and any partner, officer, director, managerial employee, or owner of five percent or more of the applicant has been affiliated with in the past ten years;

(d) When the applicant is a partnership, provide the requested information for each individual partner for the ten years preceding the date the application is submitted; and

(e) When the applicant is a corporation, provide the requested information for each individual with a five percent or greater interest in the corporation for the ten years preceding the application date.

(2) Within sixty days of receipt of the application the department shall approve or deny the application, or request additional information from the applicant. The department shall conduct an on-site review of the contracting facility before issuing a contract. The department may extend the sixty days to allow the applicant to supply or clarify information requested by the department.

(3) The department shall disqualify a contract applicant when one of the following has occurred in the past ten years:

(a) The applicant, acting independently or in association with others, had a license for the care of children or adults revoked, suspended, or canceled.

(b) The applicant, acting independently or in association with others, has been enjoined from operating a facility, for the care of children or adults, permanently or temporarily.

(c) The applicant, acting independently or in association with others, had a facility for the care of children or adults decertified, and some or all of the residents were removed.

(d) The applicant, acting independently or in association with others, was assessed a criminal fine, jail term (whether suspended or not), or any other criminal penalty in connection with the operation of any facility for the care of children or adults.

(e) The applicant, acting independently or in association with others, was convicted of any felony or crime against a person or an offense, as outlined under RCW 43.43.830.

(4) When determining whether to approve an assisted living services contract application the department shall consider the following information relevant if it involves the care provided to children or adults. The department may deny an application for contract when one of the following circumstances has occurred:

(a) The applicant, acting independently or in association with others, has been adjudged liable for civil damages by a court, or settled such an action out of court based on alleged negligent conduct or intentional misconduct on an individual's part or in association with others;

(b) The applicant, acting independently or in association with others, has been a party to a Medicaid or Medicare provider agreement, or a party to any other agreement with a public agency for the care or treatment of children or adults which was revoked, canceled, suspended, or not renewed (whether in part or in whole, temporarily or permanently) by such agency;

(c) The applicant, acting independently or in association with others, had sanction or corrective action taken by federal, state, county, or municipal health or safety officials;

(d) The applicant, acting independently or in association with others, filed for bankruptcy, reorganization, or receivership based on failure or inability to meet financial obligations in the regular course of business or has individually or in association with others, ever had a judgment obtained against the individual by a creditor;

(e) The applicant, acting independently or in association with others, was denied a license or license renewal to operate a facility that was licensed for the care of children or adults;

PROPOSED

(f) The applicant, acting independently or in association with others had a stop-placement or stop-payment instituted in a facility for the care of children or adults;

(g) The applicant, acting independently or in association with others, was assessed a civil fine;

(h) The applicant, acting independently or in association with others, had resident trust funds or assets of an entity providing care to children or adults seized by the IRS or a state entity for failure to pay income taxes or payroll taxes; or

(i) The applicant, acting independently or in association with others, failed to properly maintain resident trust funds in accordance with accepted accounting practices and chapter 70.129 RCW.

NEW SECTION

WAC 388-15-940 Change of parties to the contract. (1) A change of contractor occurs when there is a substitution of the individual contractor or contracting entity ultimately responsible for the daily operational decisions of the assisted living service; or a substitution of control of such contracting entity.

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

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

(ii) Assisted living services contracts rights and responsibilities are transferred by the initial contractor to another party regardless of whether ownership of some or all of the real property and/or personal property assets of the facility is also transferred;

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

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

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

(A) New or former stockholders; or

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

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

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

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

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

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

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

(b) Name and address of the assisted living services contract being transferred; and

(c) Date of proposed transfer.

(3) The operation or ownership of an assisted living services contract shall not be transferred until the new operator has entered into an assisted living services contract with the department. The new contractor shall comply with contract application requirements.

NEW SECTION

WAC 388-15-945 Client eligibility. The contractor shall provide assisted living services to a person eligible for COPES services under WAC 388-15-202 through 388-15-205 and WAC 388-15-600 through 388-15-615 as determined by the department's case manager.

NEW SECTION

WAC 388-15-950 Relocation criteria. The contractor shall include the department's case manager in the development of any plan to relocate or discharge a resident. Relocation criteria are set forth in boarding home regulations under chapter 246-316 WAC, and Long-term care resident rights under chapter 70.129 RCW.

NEW SECTION

WAC 388-15-955 Assisted living services contract payment procedures. (1) The resident shall pay nonexempt income directly to the facility. The department shall pay the remainder of the costs after deducting the resident's share in the cost of care, and allocate all nonexempt income of a person receiving COPES assisted living services according to procedures under WAC 388-515-1505.

(2) The department shall pay for COPES assisted living services provided in accordance with the resident's approved negotiated service agreement, a sum including the resident's cost share, not to exceed the COPES assisted living rates set forth in the most recent schedule of department-established and published rates.

(3) The department shall pay to hold a resident's unit, held for the resident during a hospital or nursing facility stay not to exceed thirty days, at a unit hold rate set by the department.

WSR 95-11-019
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE
[Filed May 8, 1995, 9:12 a.m.]

Original Notice.

Title of Rule: WAC 132Q-04-076 Hazing prohibited.

Purpose: To implement state statute prohibiting hazing by a student organization or living group.

Statutory Authority for Adoption: RCW 28B.10.902(3), 28B.50.140(13).

Statute Being Implemented: RCW 28B.10.900 - [28B.10.]903.

Summary: To implement state statute prohibiting hazing.

Reasons Supporting Proposal: Required by statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Geoffrey J. Eng, North 2000 Greene Street, Spokane, (509) 533-8667.

Name of Proponent: Community Colleges of Spokane, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To prohibit and define hazing.

Proposal Changes the Following Existing Rules: The rule adds another type of prohibited activity.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Rule has no application to industry.

Hearing Location: Community Colleges of Spokane, District Board Room, North 2000 Greene Street, Spokane, WA 99207, on July 25, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Geoffrey J. Eng, TDD (509) 533-7466, or (509) 533-8667.

Submit Written Comments to: FAX (509) 533-8052.

Date of Intended Adoption: July 25, 1995.

May 1, 1995
Geoffrey J. Eng
District Director
Affirmative Action
Administrative Services

NEW SECTION

WAC 132Q-04-076 Hazing prohibited Hazing is prohibited. Hazing means any method of initiation into a student organization or living group or any pastime or amusement engaged in with respect to such an organization or living group that causes, or is likely to cause, bodily danger or physical harm, or serious mental or emotional harm, to any student or other person attending any institution of higher education or post-secondary institution. Excluded from this definition are "customary athletic events or other similar contests or competitions."

WSR 95-11-020
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE
[Filed May 8, 1995, 9:15 a.m.]

Original Notice.

Title of Rule: WAC 132Q-04-077 Penalties for hazing.

Purpose: To implement state statute and to prescribe sanctions for violations.

Statutory Authority for Adoption: RCW 28B.10.902(3), 28B.50.140(13).

Statute Being Implemented: RCW 28B.10.900 - [28B.10.]903.

Summary: To describe sanctions for hazing violations.

Reasons Supporting Proposal: Required by statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Geoffrey J. Eng, North 2000 Greene Street, Spokane, (509) 533-8667.

Name of Proponent: Community Colleges of Spokane, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To define sanctions for hazing violations.

Proposal Changes the Following Existing Rules: The rule adds another type of prohibited activity.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Rule has no application to industry.

Hearing Location: Community Colleges of Spokane, District Board Room, North 2000 Greene Street, Spokane, WA 99207, on July 25, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Geoffrey J. Eng, TDD (509) 533-7466, or (509) 533-8667.

Submit Written Comments to: FAX (509) 533-8052.

Date of Intended Adoption: July 25, 1995.

May 1, 1995
Geoffrey J. Eng
District Director
Affirmative Action
Administrative Services

NEW SECTION

WAC 132Q-04-077 Penalties for hazing Any organization, association or student living group that knowingly permits hazing shall: a) be liable for harm caused to persons or property resulting from hazing and b) be denied recognition by Community Colleges of Spokane as an official organization, association or student living group on this campus. If the organization, association or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

A person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for one calendar year.

Forfeiture of state-funded grants, scholarships or awards may continue for an additional calendar year up to and including permanent forfeiture, based upon the seriousness of the violations.

Other sections of the Student Code of Conduct may be applicable to hazing violations.

Hazing violations are also misdemeanors punishable under state criminal law according to RCW 9A.20.021.

PROPOSED

WSR 95-11-021
PROPOSED RULES
COMMUNITY COLLEGES OF SPOKANE
[Filed May 8, 1995, 9:17 a.m.]

Original Notice.

Title of Rule: WAC 132Q-04-078 Sanctions for impermissible conduct not amounting to hazing.

Purpose: To implement state statute and to prescribe sanctions for violations.

Statutory Authority for Adoption: RCW 28B.10.902(3), 28B.50.140(13).

Statute Being Implemented: RCW 28B.10.900 - [28B.10.]903.

Summary: To define other types of prohibited conduct not amounting to hazing.

Reasons Supporting Proposal: Required by statute.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Geoffrey J. Eng, North 2000 Greene Street, Spokane, (509) 533-8667.

Name of Proponent: Community Colleges of Spokane, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: To define other prohibited conduct not amounting to hazing.

Proposal Changes the Following Existing Rules: The rule adds another type of prohibited activity.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Rule has no application to industry.

Hearing Location: Community Colleges of Spokane, District Board Room, North 2000 Greene Street, Spokane, WA 99207, on July 25, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Geoffrey J. Eng, TDD (509) 533-7466, or (509) 533-8667.

Submit Written Comments to: FAX (509) 533-8052.

Date of Intended Adoption: July 25, 1995.

May 1, 1995
Geoffrey J. Eng
District Director
Affirmative Action
Administrative Services

NEW SECTION

WAC 132Q-04-078 Sanctions for impermissible conduct not amounting to hazing Impermissible conduct associated with initiation into a student organization or living group or any pastime or amusement engaged in, with respect to the organization or living group, will not be tolerated.

Impermissible conduct which does not amount to hazing may include conduct which causes embarrassment, sleep deprivation or personal humiliation, or may include ridicule or unprotected speech amounting to verbal abuse.

Impermissible conduct not amounting to hazing is subject to any sanctions available under the Student Code of Conduct depending upon the seriousness of the violation.

WSR 95-11-023
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 8, 1995, 1:40 p.m.]

Original Notice.

Title of Rule: WAC 314-16-080 Food and beverage service workers— Permit.

Purpose: Requires licensees and their employees holding beer and/or wine licenses for on-premises consumption to have "food service worker's permits" from local health departments.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: WAC 314-16-080 will be repealed since local health regulations require this type of certification and the existing rule is repetitive.

Reasons Supporting Proposal: Repeal of this rule will better manage board resources. It is up to the local health departments to enforce their permit requirements.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, P.O. Box 43094, Olympia, (360) 586-6701; Implementation and Enforcement: Gary W. Gilbert, P.O. Box 43094, Olympia, (360) 586-3052.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The rule currently requires licensees and their employees to obtain a "food service worker's permit" through local health departments. These health departments already require such permits and the rule should be repealed leaving the requirement of such permit to local authorities .

Proposal Changes the Following Existing Rules: Existing rule would be repealed as it is not necessary because local health departments already require such permits be acquired.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. There are no additional costs for compliance placed upon licensees as the rule is being repealed.

Hearing Location: Washington State Liquor Control Board, Fifth Floor, Capital Plaza Building, 1025 East Union, Olympia, WA 98504, on June 28, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact ATT TTY/TDD Relay by June 26, 1995, TDD (800) 833-6388.

Submit Written Comments to: Public Information Office, Attn: Carter Mitchell, P.O. Box 43080, Olympia, WA 98504-3080, FAX (360) 664-9689.

Date of Intended Adoption: July 5, 1995.

May 8, 1995
Joe McGavick
Chair

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-16-080	Food and beverage service workers—Permit.

WSR 95-11-039
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 10, 1995, 8:55 a.m.]

Original Notice.

Title of Rule: Amending WAC 458-40-615 Timber excise tax—Stumpage values—Reporting of private stumpage and log purchase sales and applicable logging costs to the department, 458-40-640 Timber excise tax—Stumpage value area (map), and 458-40-684 Timber excise tax—Volume harvested—Conversions to Scribner Decimal C Scale for Western Washington.

Purpose: The amendment of WAC 458-40-615 is to comply with new legislation (1994). The amendment of WAC 458-40-640 is to adjust the boundary line between stumpage areas 5 and 6 to more closely coincide with the growing, harvesting and marketing conditions in the area. The amendment of WAC 458-40-684 is to coincide with definitional changes.

Statutory Authority for Adoption: RCW 82.32.300 and 84.33.096.

Statute Being Implemented: RCW 84.33.0501, 84.33.091.

Summary: These rules inform timber harvesters of reporting requirements relative to purchases of timber, a change in the boundary between two stumpage value areas, and the proper conversion from weight to Scribner Scale.

Reasons Supporting Proposal: These proposed amendments are necessary to comply with legislative requirements and to enable timber harvesters to properly report and calculate timber harvested and the amount of tax owed.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 711 Capitol Way South, #303, Olympia, WA, (360) 754-2854; Implementation and Enforcement: Gary O'Neil, 2735 Harrison N.W., Building #4, Olympia, WA, (360) 753-2871.

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: WAC 458-40-615 explains the reporting requirement for purchases of timber in excess of 200,000 board feet. The rule also explains the application of the penalty established by the legislature for failure to report, together with the procedures for waiver and appeal of the penalty. WAC 458-40-640 is the map showing the change in the boundary between stumpage areas 5 and 6. WAC 458-40-684 adds conversion factors for several species.

Proposal Changes the Following Existing Rules: See above description.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Department of Revenue has reviewed administrative provisions contained in these rules in order to determine the economic impact on small businesses. The proposed amendments to these rules will have minor or negligible economic impact.

Hearing Location: Department of Revenue Conference Room, Target Place Building, No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request a copy of the information in an alternate format contact Sandra Chan, TDD 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: James A. Winterstein, Counsel, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, by June 27, 1995.

Date of Intended Adoption: June 30, 1995.

May 10, 1995
Russell W. Brubaker
Assistant Director

PROPOSED

[AMENDATORY SECTION (Amending WSR 92-18-030, filed 8/26/92)]

WAC 458-40-615 Timber excise tax—Stumpage values—Reporting of private stumpage ((~~and log purchase~~)) sales ((~~and applicable logging costs~~)) to the department. (1) **Introduction**. The department is required to semi-annually publish stumpage tables. The department has designated areas containing similar growing, harvesting and marketing conditions to be used as units for the preparation and application of stumpage values. Stumpage tables for each species or subclassification within a stumpage value area are prepared on or before each December 31 for use the following January through June and on or before June 30 for use July through December. The stumpage value is the amount that each species or subclassification would sell for at a voluntary sale (public or private) made in the ordinary course of business for purposes of immediate harvest. The stumpage values are determined in a manner which makes reasonable allowances for age, size, quantity, costs of removal, accessibility to point of conversion, market conditions and all other relevant factors from:

(a) Gross proceeds from sales (public and/or private) on the stump of similar timber of like quality and character at similar locations and in similar quantities;

(b) Gross proceeds from sales (public and/or private) of logs adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest; or

(c) A combination of (a) and (b) of this subsection.

(2) **Reporting requirement-in general**. To enable the department to determine stumpage values, the department must have information on public and private sales of stumpage (timber), both lump sum sales and scale sales. RCW 84.33.0501 requires the reporting, by the purchaser, of voluntary sales of privately owned timber made in the ordinary course of business. The law also provides a penalty for failure to report a sale. The elements for the report and the penalty provisions are explained in the following subsections of this section. ((~~Informational reporting requirements on private sales of logs and applicable logging costs are deferred until such time, if any, when the department determines that private log sale information is necessary. An informational reporting requirement for private log sales will be instituted by the department only through the rule making process.~~)) All public sales of stumpage ((~~and logs and applicable logging costs~~)) are available to the department through information sharing agreements. ((~~All private sales of stumpage are to be reported to the department as provided in this section.~~))

(3) **Reporting of stumpage purchases-buyers**. All private stumpage purchases in excess of ((~~100,000~~)) 200,000

board feet shall be reported to the department on the informational return/report provided by the department or in any reasonable alternate form or, at the purchaser's option, by submitting the timber sale contract or relevant portions thereof, provided that all the information required in subsection (6) of this section is reported. The buyer of stumpage must report each stumpage purchase. For purposes of this section, all stumpage purchases are either;

(a) Lump sum sales as defined in WAC 458-40-610(7), which states: "Lump sum sale. Also known as a cash sale or installment sale, it is a sale of timber wherein the total sale price is dependent upon an estimate of the total volume of timber in the sale rather than the actual timber harvested."; or

(b) Scale sales as defined in WAC 458-40-610(16), which states: "Scale sale. A sale of timber in which the sale price is the product of the actual volume harvested and the unit price at the time of harvest."

(4) ((~~**Reporting of stumpage purchases sellers.** The seller of stumpage shall report to the department the name and address of the buyer.~~

~~(5)~~)) **Time of reporting**. The informational returns/reports for purchases of stumpage, ((~~and the name and address report~~)) or the returns/reports to the department of the information required by subsection (6) of this section, ((~~by the seller are each~~)) are due to the department no later than the last ((~~working~~)) day of the month following the month in which the purchase of stumpage occurred.

(((~~6~~))) (5) **Reporting-confidentiality of information**. All data submitted to the department in compliance with this section is and is deemed to be confidential tax information protected from disclosure under RCW 82.32.330. To the extent allowable by law, the department will not use or publish the informational return/report information in a manner such that the data from a particular return/report can be identified.

(((~~7~~))) (6) **Informational return/report**. The return/report shall consist of an information page which contains the identification of the seller and buyer, the date of the sale, and such other information as the department may require for the identification of the transaction. ((~~In addition to the information page, the informational return shall contain a copy of the contract(s) or other instrument(s) of sale, a map of the location of the sale and a copy of the timber cruise or other volume estimate of the subject timber, all supplied by the person filing the return.~~))

(a) A supply of informational returns will be provided to those persons involved in transactions on a regular basis.

(b) Persons who do not receive a supply of informational returns from the department will be provided a supply of informational returns upon a request to the department.

(c) Any report not made on the department's informational return form complies with this section if it contains all information relevant to the value of the timber purchased, including, but not limited to, the following, as applicable:

(i) Purchaser's name;

(ii) Purchaser's address;

(iii) Sale date;

(iv) Termination date in sale agreement;

(v) Total sale price;

(vi) Total acreage involved;

(vii) Net volume of timber purchased;

(viii) Legal description of sale area and/or map of sale area;

(ix) Road construction or improvements required or completed;

(x) Timber cruise volume data by species and log grade or log sort, as appropriate; and

(xi) Timber thinning data.

(7) **Penalty for failure to report.** A purchaser of timber who is required to report the purchase in accordance with RCW 84.33.0501 and this section, and who fails to report the purchase as required is liable for a penalty of two hundred fifty dollars for each failure to report.

(a) When a penalty for failure to report is imposed, the department shall notify the purchaser, by certified mail, of the imposition of the penalty, provide a due date for the payment of the penalty, and shall provide in the notice the availability of administrative appeal of the penalty imposition as provided in subsection (9) of this section.

(8) **Waiver of penalty.** The penalty waiver provisions of RCW 82.32.105 applying to certain excise taxes apply to the penalty imposed by RCW 84.33.0501. See: WAC 458-20-228 for waiver of penalties.

(a) The department will waive or cancel the penalties imposed upon a finding that the failure of a taxpayer to file the report as provided in this section was due to circumstances beyond the control of the purchaser. The department has no authority to cancel penalties for any other reason. Penalties will not be cancelled merely because of ignorance or a lack of knowledge by the purchaser of the reporting requirement.

(i) A purchaser, in addition to the right to appeal the imposition of the penalty as provided in subsection (9) of this section, may request cancellation or waiver of the penalty from the office that issued the notice of imposition of the penalty. Such a request for a waiver or cancellation of penalties must be in letter form and addressed to the office which issued the notice of penalty imposition. Such request shall contain all pertinent facts and be accompanied by such proof as may be available. If the request to the office issuing the notice of penalty is denied, the purchaser may petition for review as provided in subsection (9) of this section. Or, the purchaser may petition for review directly as provided in subsection (9) of this section. A request to the office issuing the notice of the imposition of the penalty for cancellation and/or waiver of the penalty, and a petition for cancellation of penalties under subsection (9) of this section each must be made within the period for filing under RCW 82.32.160 (within thirty days after the issuance of the original notice of the amount owed or within the period covered by any extension of the due date granted by the department). In all cases the burden of proving the facts is upon the purchaser.

(b) The following situations will be the only circumstances under which a cancellation of penalties will be considered by the department:

(i) The return/report was filed on time but inadvertently mailed to another agency.

(ii) The failure to file the report was due to erroneous written information given the purchaser by a department officer or employee. A penalty generally will not be waived when it is claimed that erroneous oral information was given by a department employee. The reason for not cancelling

the penalty in cases of oral information is because of the uncertainty of the facts presented, the instructions or information imparted by the department employee, or that the purchaser fully understood the information received. Reliance by the purchaser on incorrect advice received from the taxpayer's legal or accounting representative is not a basis for cancellation of the penalty.

(iii) The delinquency was caused by death or serious illness of the purchaser or his immediate family, or illness or death of the purchaser's accountant or the accountant's immediate family, prior to the filing date.

(iv) The failure to report was caused by unavoidable absence of the taxpayer, prior to the filing date.

(v) The failure to report was caused by the destruction by fire or other casualty of the purchaser's place of business or business records.

(vi) The purchaser, prior to the time for filing the return, made timely application to the Olympia or district office, in writing, for proper forms and these were not furnished in sufficient time to permit the completed return/report to be timely filed.

(vii) The failure to file a return/report penalty will be waived or cancelled on a one time only basis if the return/report was received under the following circumstances:

(A) The return/report was received by the department within 30 days after the due date; and,

(B) The failure to report was the result of an unforeseen and unintentional circumstance, not immediately known to the taxpayer, which circumstance will include the error or misconduct of the taxpayer's employee or accountant, confusion caused by communications with the department, failure to receive return forms timely, natural disasters such as a flood or earthquake, and delays or losses related to the postal service.

(c) Any person aggrieved by the imposition of the penalty by the department may petition the department in writing in accordance with RCW 82.32.160 and WAC 458-20-100.

(9) **Appeal.** A purchaser may appeal the imposition of the penalty to the department. The appeal provisions of RCW 82.32.160 and 170 shall each apply. The petition for appeal of the imposition of the penalty must be filed with the department's Interpretation and Appeals Division within 30 days of the later of:

(a) The date of the notice of the imposition of the penalty, plus extensions, if any, provided by the department, or,

(b) The denial of the request for cancellation or waiver of the penalty made to the office which issued the notice of imposition of the penalty as provided in subsection (8)(a)(i) of this section.

(c) See: WAC 458-20-100 for appeal process and procedure.

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

AMENDATORY SECTION (Amending WSR 95-02-037, filed 12/30/94, effective 1/1/95)

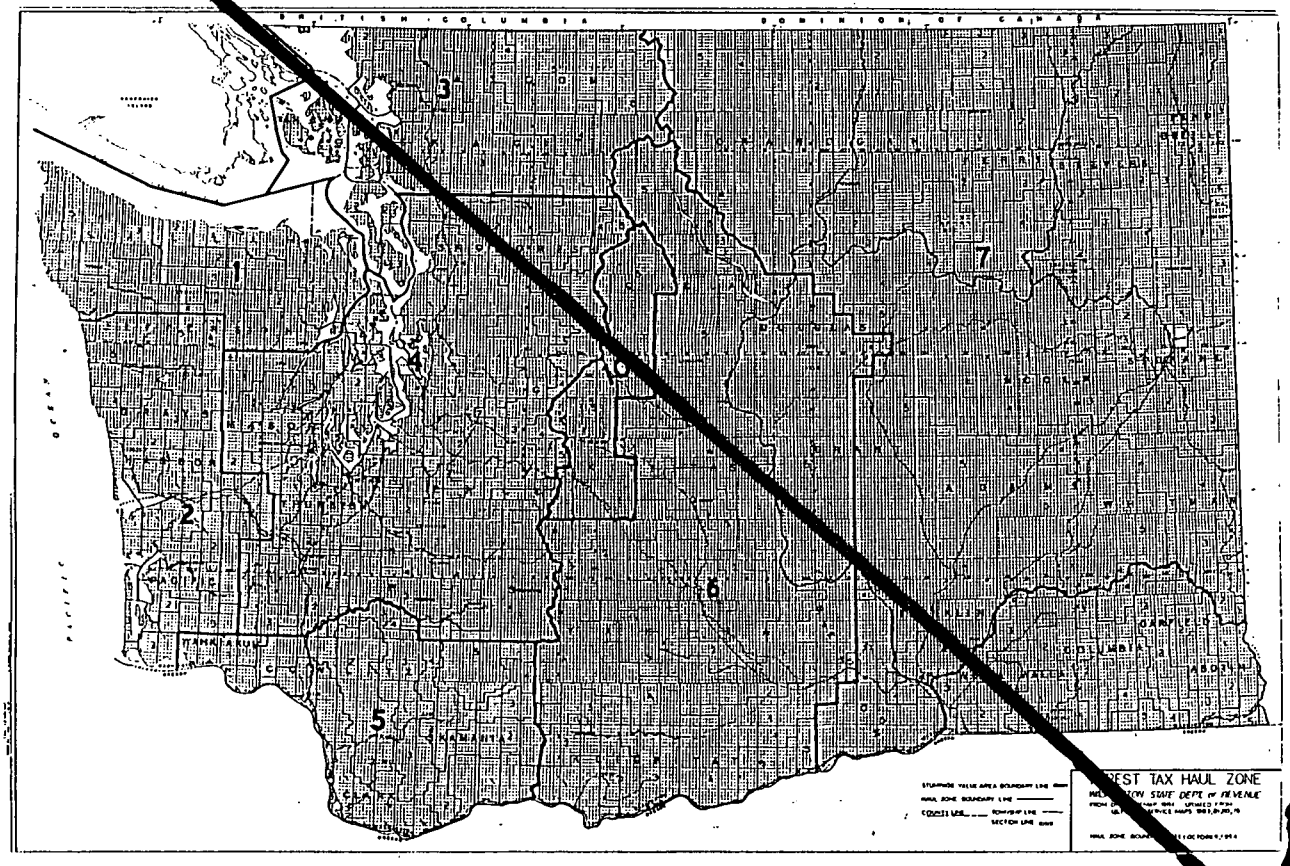
WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area and hauling distance zone map contained in this section shall be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value of timber harvested from private land.

PROPOSED

PROPOSED

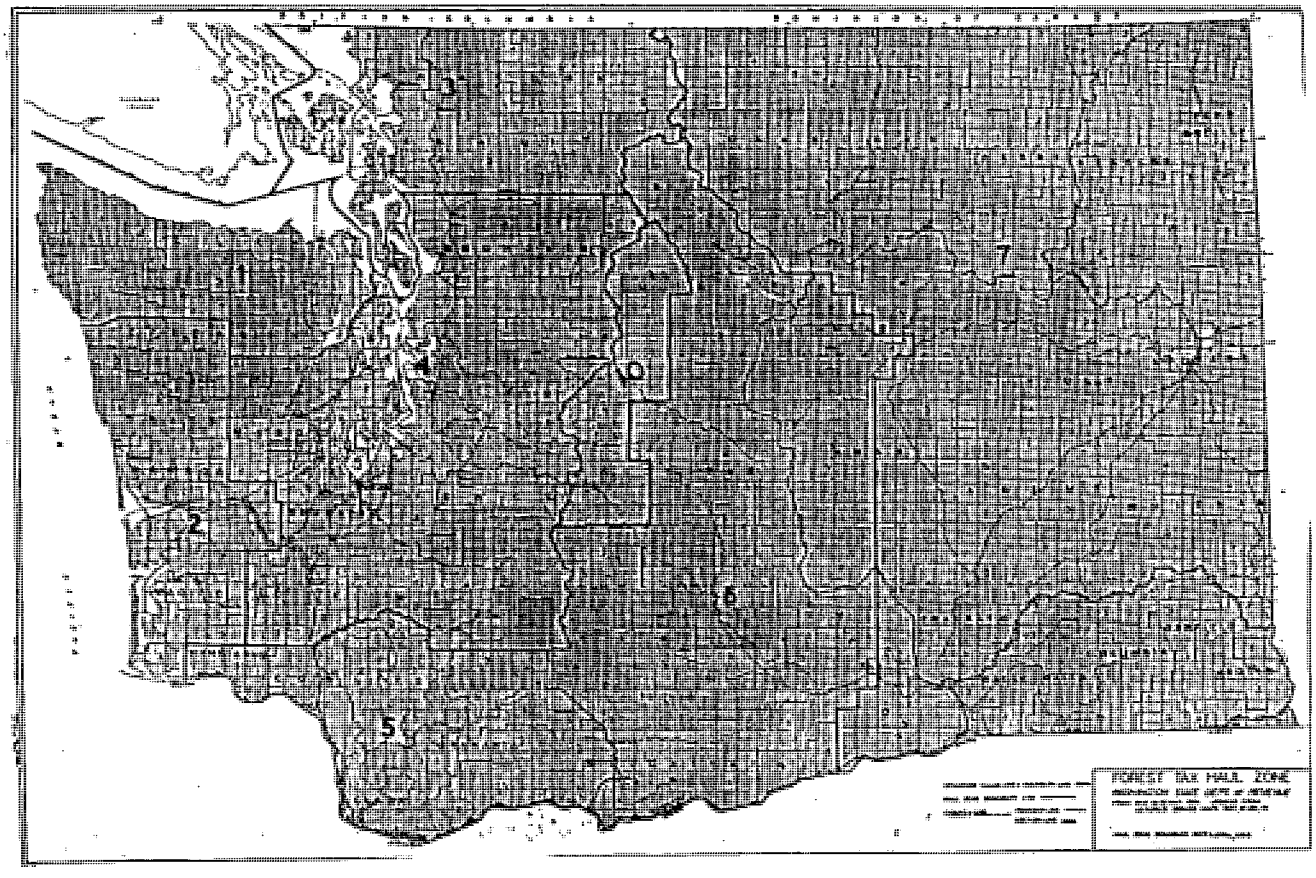
WAC 458-40-640 STUMPAGE VALUE AREA AND HAULING ZONE -- MAP

Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, WA. 98504-7472; or by calling (206) 753-7086.



WAC 458-40-640 STUMPAGE VALUE AREA AND HAULING ZONE -- MAP

Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, WA. 98504-7472; or by calling (206) 753-7086.



PROPOSED

[AMENDATORY SECTION (Amending WSR 92-14-083, filed 6/29/92)]

WAC 458-40-684 Timber excise tax—Volume harvested—Conversions to Scribner Decimal C Scale for Western Washington. The following definitions, tables, and conversion factors shall be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods, other than those listed are not to be used for tax reporting purposes without prior written approval of the department.

(1) **Weight measurement**. If the original unit of measure was by weight, and the harvester has not applied for approval of sample scaling (WAC 458-40-682)((~~,~~)), the following table shall be used for converting to Scribner Decimal C. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(Stumpage Value Areas 1, 2, 3, 4, 5, & 10)
BOARD FOOT WEIGHT SCALE FACTORS
(TONS/MBF)

Quality Code	Species code DF*	WH**	RC	RA***	~~HU~~ ~~CU~~
1	5.0	6.0	4.5	7.0	~~8.5~~ ~~***~~
2	6.0	6.5	5.0	7.75	
3	6.5	7.5	6.5	8.5	
4	7.5	8.25	7.0	—	

*Includes Douglas-fir, and Sitka Spruce.
**Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
***((~~Contact the department for converting the weight of utility logs to Scribner volume~~)) Maple, Black cottonwood and other hardwoods.

(2) **Cord measurement**. A cord is a measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(a) Logs with an average scaling diameter of 8 inches and larger shall be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches shall be converted to Scribner volume using 330 board feet per cord.

(b) A cord of Western Redcedar shake or shingle blocks shall be converted to Scribner volume using 600 board feet per cord.

(3) **Cants or lumber from portable mills**. To convert from lumber tally to Scribner volume, multiply the lumber tally for the individual species by 75% and round to the nearest one thousand board feet (MBF).

(4) **Eastern, western log scale conversion**. Timber harvested in stumpage value areas 1, 2, 3, 4, and 5 and which has been scaled by methods and procedures published in the "National Forest Log Scaling Handbook" (FSH 2409.11) shall have the volumes reported reduced by eighteen percent to reflect the difference between eastern and western scaling practices.

(5) **Timber pole volume table**. Harvesters of poles in stumpage value areas 1, 2, 3, 4, and 5 shall use the following table to determine the Scribner board foot volume for each pole length and class:

Pole Length	Pole Class[1]	Total Scribner Board Foot Volume by Pole Length by Pole Class[2]
	1	50
	2	50
	3	40
	4	40
20'	5	30
	6	30
	7	20
	9	20
	10	20
	1	60
	2	60
	3	50
	4	50
25'	5	40
	6	40
	7	30
	9	30
	10	30
	1	110
	2	70
	3	60
30'	4	60
	5	50
	6	50
	7	40
	9	40
	H2	160
	H1	160
	1	130
	2	100
35'	3	80
	4	80
	5	60
	6	60
	7	50
	H4	240(240)
	H3	200(200)
	H2	180
	H1	180
40'	1	150
	2	120
	3	120
	4	90
	5	70
	6	60

	H6	380(380)
	H5	340(340)
	H4	340(340)
	H3	280(270)
	H2	230(130)
45'	H1	230(130)
	1	190(110)
	2	150
	3	120
	4	120
	5	90
	6	90
	H6	430(430)
	H5	370(370)
	H4	370(370)
	H3	300(300)
	H2	260(260)
50'	H1	260(150)
	1	210(120)
	2	160
	3	140
	4	140
	5	100
	H6	470(470)
	H5	410(410)
	H4	410(410)
	H3	330(330)
	H2	280(160)
55'	H1	280(160)
	1	230(130)
	2	180
	3	150
	4	150
	H6	540(540)
	H5	470(470)
	H4	470(470)
	H3	410(410)
60'	H2	340(210)
	H1	340(210)
	1	290(180)
	2	220(150)
	3	190
	4	190
	H6	610(610)
	H5	520(520)
	H4	520(520)
	H3	420(420)
65'	H2	380(230)
	H1	380(230)
	1	320(190)
	2	260(160)
	3	210
	4	210

	H6	650(650)
	H5	560(560)
	H4	560(560)
	H3	480(480)
70'	H2	400(240)
	H1	400(240)
	1	350(210)
	2	270(170)
	3	230
	4	230
	H6	700(700)
	H5	600(600)
	H4	600(600)
	H3	520(520)
75'	H2	520(520)
	H1	520(330)
	1	440(270)
	2	290(180)
	3	250
	H6	820(820)
	H5	700(700)
	H4	700(700)
	H3	600(600)
80'	H2	600(600)
	H1	540(360)
	1	440(290)
	2	360(240)
	3	290(200)
	H6	910(910)
	H5	800(800)
	H4	800(800)
	H3	660(660)
85'	H2	660(660)
	H1	660(520)
	1	570(450)
	2	490(340)
	3	360(200)
	H6	1080(1080)
	H5	930(930)
	H4	930(930)
	H3	820(820)
90'	H2	820(820)
	H1	690(560)
	1	590(480)
	2	490(420)
	3	400(210)
	H6	1170(1170)
	H5	1000(1000)
	H4	1000(1000)
95'	H3	870(870)
	H2	870(870)
	H1	750(600)
	1	640(510)
	2	540(440)

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	H6	1190(1190)
	H5	1030(1030)
	H4	1030(1030)
100'	H3	900(900)
	H2	900(900)
	H1	760(610)
	1	660(530)
	2	550(450)
	H6	1310(1310)
	H5	1160(1160)
	H4	1160(1160)
105'	H3	1000(1000)
	H2	1000(1000)
	H1	860(700)
	1	740(600)
	2	610(510)
	H6	1370(1370)
	H5	1220(1220)
	H4	1220(1220)
110'	H3	1050(1050)
	H2	1050(1050)
	H1	910(740)
	1	780(640)
	2	650(540)
	H6	1440(1440)
	H5	1280(1280)
	H4	1280(1280)
115'	H3	1100(1100)
	H2	1100(1100)
	H1	960(780)
	1	860(670)
	2	680(570)
	H6	1660(1660)
	H5	1460(1460)
	H4	1460(1460)
120'	H3	1300(1300)
	H2	1300(1300)
	H1	1140(960)
	1	970(820)
	2	820(700)
	H6	1840(1840)
	H5	1600(1600)
	H4	1600(1600)
125'	H3	1410(1410)
	H2	1410(1410)
	H1	1250(1100)
	1	1080(940)
	2	930(830)
	H6	1920(1920)
	H5	1680(1680)
	H4	1680(1680)
130'	H3	1490(1490)
	H2	1490(1490)
	H1	1310(1160)
	1	1120(990)
	2	970(870)

[1] Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976 under American National Standard Institute, Inc. codified ANSI 05.1-1972.

[2] The number, enclosed in parenthesis after the total Scribner pole volume for each pole length and class, is the volume per pole for Number 2 Sawmill and better log grade, where applicable.

(6) **Timber piling volume table.** Harvesters of piling in stumpage value areas 1, 2, 3, 4, and 5 shall use the following table to determine the Scribner board foot volume for each piling length and class:

Piling Length	Piling Class[1]	Total Scribner Board Foot Volume by Pole Length by Pole Class[2]
20'	A	80
	B	70
25'	A	100
	B	90
30'	A	130
	B	110
35'	A	130
	B	110
40'	A	150
	B	120
45'	A	150
	B	120
50'	A	160
	B	140
55'	A	180
	B	150
60'	A	190
	B	160
65'	A	210
	B	180
70'	A	230
	B	190
75'	A	230
	B	200
80'	A	250
	B	210
85'	A	260(140)
	B	210
90'	A	260(150)
	B	220
95'	A	290(150)
	B	240
100'	A	310(160)
	B	250
105'	A	330(170)
	B	270

110'	A	380(220)
	B	300(180)
115'	A	400(230)
	B	310(190)
120'	A	500(290)
	B	400(240)

[1] Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

[2] The number, enclosed in parenthesis after the total Scribner board foot volume for each piling length and class, is the volume per piling for Number 2 Sawmill and better log grade, where applicable.

(7) Harvesters who wish to use a method of conversion other than those listed above must obtain written approval from the department before harvesting.

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 95-11-040
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 10, 1995, 11:15 a.m.]

Original Notice.

Title of Rule: Attorneys.

Purpose: Update for statutory changes made in chapter 25, Laws of 1993 1st sp. sess. to RCW 82.04.055 and 82.04.290. Also revised to address legal services provided by providers in more than one tax classification.

Statutory Authority for Adoption: RCW 82.32.300, 34.05.410.

Statute Being Implemented: RCW 82.04.055 and 82.04.290.

Summary: Rule states the change in statutory tax classification for attorneys and other legal providers. It sets out the exclusions to this classification and how to report multiple business activities under different tax classifications.

Reasons Supporting Proposal: Change in law.

Name of Agency Personnel Responsible for Drafting: Edward Ratcliffe, 711 Capitol Way South, Suite 303, Olympia, (360) 586-3505; Implementation: Les Jaster, 711 Capitol Way South, Suite 303, Olympia, (360) 586-7150; and Enforcement: Russ Brubaker, 711 Capitol Way South, Suite 303, Olympia, (360) 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: Rule 207 sets out how income earned by an attorney or other legal provider should be classified and reported to the Department of Revenue. Its purpose is to simplify this process for legal providers by providing information necessary for them to report under one rule. The anticipated effect is that there will be fewer mistakes and noncompliance because of a misunderstanding of the tax statutes affecting this profession.

Proposal Changes the Following Existing Rules: The change is mostly due to the adoption of a new classification for legal providers by statute in 1993. The changes discuss the new rate and when it is applicable. Because of exclusions under the statute, more clarification is given for legal providers engaged in multiple business activities about classification of such activities and record keeping.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The rule does not impose a duty or requirement on small businesses that is not already imposed by statute.

Hearing Location: Revenue Conference Room #402, General Administration Building, 210 11th and Columbia, Olympia, WA, on June 28, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request a copy of the information in an alternate format contact Sandra Chan, TDD 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: Edward Ratcliffe, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, by June 28, 1995.

Date of Intended Adoption: July 7, 1995.

May 10, 1995
Russell W. Brubaker
Assistant Director
Legislative and Policy

AMENDATORY SECTION (Amending WSR 85-20-012 (Order ET 85-4), filed 9/20/85)

WAC 458-20-207 ((~~Attorneys~~)) **Legal, arbitration, and mediation services.** ((~~The word "attorney" as used herein means an individual engaged in the practice of law. The term shall also include a professional service corporation organized under chapter 18.100 RCW for the purpose of engaging in the practice of law.~~

~~**Business and Occupation Tax**~~

~~Attorneys are taxable under the service and other activities classification upon the gross income of the business. Gross income of the business means the value proceeding or accruing by reason of the transaction of the business engaged in and includes compensation for the rendition of services, all without any deduction on account of expenses or losses. (See RCW 82.04.070.) Value proceeding or accruing means consideration actually received or accrued. (See RCW 82.04.090.) Thus, under these statutes, the measure of the tax for attorneys includes compensation or consideration for the rendition of legal service.~~

~~Attorneys are bound by the rules of professional conduct. RPC 1.8e prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for such expenses. An attorney therefore normally acts solely as agent for the client when financing litigation. Accordingly, amounts received from a client for certain expenses of litigation do not constitute income to the attorney. Thus, such amounts are not part of the business and occupation tax measure.~~

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~~Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third party providers incurred in connection with a legal matter other than litigation. Such amounts are also excluded from the business and occupation tax, but only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment.~~

~~Thus, the following kinds of expenses are not subject to the business and occupation tax where the above requirements are satisfied.~~

~~A. Filing fees and court costs.~~

~~B. Process server and messenger fees.~~

~~C. Court reporter fees.~~

~~D. Expert witness fees.~~

~~E. Costs of associate counsel.~~

~~F. Costs of third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, surveyors, etc.) who provide services to the client which the attorney does not or cannot render, and to whom the attorney has no obligation for payment other than as agent for the client.~~

~~G. Registration, licensing or maintenance fees.~~

~~H. Title and other insurance premiums.~~

~~I. Escrow fees paid to third party escrow agents.~~

~~In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that (1) payment is made, or will be made on behalf of a named client, and (2) the attorney assumes no liability for payment, other than as agent for the named client.~~

~~General overhead costs are includable in the tax measure even though an attorney may allocate those costs among particular clients. Likewise, any other costs for which the attorney assumes personal liability other than as stated above are includable in the tax measure.~~

~~Thus, amounts received to compensate for the following costs are fully subject to tax, even though they may be separately stated on the billings or expressly denominated as costs of the client:~~

~~A. Photocopy or other reproduction charges.~~

~~B. Long distance telephone tolls.~~

~~C. Secretarial expenses.~~

~~D. Travel, meals and lodging.~~

~~E. Third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, etc.) to whom the attorney assumes personal liability for payment.~~

~~**Retail Sales Tax**~~

~~Attorneys primarily render professional legal services and are not required to collect the retail sales tax from clients and others paying for such services. This is so even though the legal services rendered by attorneys may include abstract, title insurance, and escrow business activities which are "retail sales" under the law when performed by persons other than attorneys.~~

~~Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.~~

~~**Use Tax**~~

~~The use tax applies upon the use within this state of all articles of tangible personal property used in the performance of professional services when such articles have been purchased or acquired under conditions whereby the Washington retail sales tax has not been paid.~~))

(1) **Introduction.** This section explains the taxation amounts received for legal, arbitration, and mediation services.

(2) **Definitions.**

(a) "Arbitration" means the process by which the parties to a dispute submit to the hearing and judgment of an impartial person or group appointed by mutual consent or statute.

(b) "Arbitration services" means services relating to the resolution of a dispute submitted to arbitration.

(c) "Attorney" means an active member of a state bar engaged in the practice of law. The term also includes a professional service corporation incorporated under chapter 18.100 RCW, a professional limited liability company formed under chapter 18.190 RCW, or a partnership, provided the ownership of these business entities are properly restricted to attorneys and organized primarily for engaging in the practice of law.

(d) "Collective investment fund" means: (i) a mutual fund or other regulated investment company as defined in Internal Revenue Code section 851(a); (ii) an "investment company" as that term is used in section 3(a) of the Investment Company Act of 1940 as well as an entity that would be an investment company under section 3(a) of the Investment Company Act of 1940 except for the exemptions in section 3(c)(1) or (11), or except that it is a foreign country; (iii) an "employee benefit plan," which includes any plan, trust, commingled employee benefit trusts, or custodial arrangement that is subject to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., or that is described in Internal Revenue Code sections 125, 401, 403, 408, 457, or 501 (c)(9) and (17) through (23), or similar plan maintained by state or local governments, or plans, trusts, or custodial arrangements established to self-insure benefits required by federal, state, or local law; (iv) a fund maintained by a tax exempt organization as defined in Internal Revenue Code sections 501 (c)(3) or 509(a) for operating, quasi-endowment, or endowment purposes; or (v) funds that are established for the benefit of such tax exempt organization such as charitable remainder trust, charitable lead trusts, charitable annuity trusts, or other similar trusts.

(e) "Legal services" means services relating to or concerned with the law. Such services include, but are not limited to, representation by an attorney (or other person, when permitted) in an administrative or legal proceeding,

legal drafting, paralegal services, legal research services, and court reporting services.

(f) "Mediation" means the process by which the parties to a dispute or negotiations agree to have an intermediary hear their differences and/or positions and facilitate and/or make suggestions concerning an agreement and/or the resolution of their dispute.

(3) **Business and occupation tax.** Every person whose business is providing legal, arbitration or mediation services, is taxable under the selected business services classification upon the gross income of the business, unless such services are provided to a collective investment fund or related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when done to determine if a release of hazardous substances has occurred or is likely to occur.

(a) Gross income. The gross income of the business generally includes the amount of compensation paid for legal, arbitration, or mediation services and amounts attributable to providing those services (i.e. charges for tangible personal property directly used or consumed in supplying legal, arbitration, or mediation services). Reimbursed general overhead costs are generally includable in this category even though indirectly related to litigation. Any reimbursed costs (not directly related to litigation) for which the attorney assumes personal liability for payment are also includable in gross income.

(b) Overhead costs. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for overhead costs are fully subject to tax. Payment amounts for such overhead costs are taxable even though they may be separately stated on the billings or expressly denominated as costs of the client. Examples of such overhead costs include, but are not limited to:

(i) Photocopy or other reproduction charges;

(ii) Long distance telephone tolls;

(iii) Secretarial expenses;

(iv) Office rent;

(v) Office supplies;

(vi) Travel, meals and lodging;

(vii) Utilities, including facsimile telephone charges; and

(viii) Postage, unless paid for service of legal papers as a direct cost of litigation.

(c) Excluded Amounts. The following amounts are excluded from gross income if complete and accurate records are maintained of these amounts.

(i) Client Trust Accounts. The gross income of the business does not include amounts held in trust for the client.

(ii) Litigation Expenses. Attorneys are bound by the rules of professional conduct. RPC 1.8(e) prohibits an attorney from financing the expenses of contemplated or pending litigation unless the client remains ultimately liable for these expenses. This means that an attorney normally acts solely as agent for the client when financing litigation. Accordingly, amounts received from a client for the direct expenses of litigation do not constitute gross income to the attorney. Amounts received (or, for taxpayers reporting under the accrual accounting method, accrued) to compensate for the following direct litigation expenses are not included in gross income:

(A) Filing fees and court costs;

(B) Process server and messenger fees;

(C) Court reporter fees;

(D) Expert witness fees; and

(E) Costs of associate counsel.

A cash basis taxpayer cannot exclude or deduct amounts of unreimbursed litigation expenses. For example, an attorney advances all the litigation expenses for a contingency fee case. The case is ultimately resolved against the attorney's client and are not repaid because of the client's bankruptcy. The attorney cannot then deduct these expenses as a bad debt or otherwise exclude them against other income earned by the attorney.

(iii) Expense advances and reimbursements. Sometimes in the regular course of business an attorney may receive amounts from a client for expenses of third party providers or other costs incurred in connection with a legal matter other than litigation. Such amounts are excluded from the business and occupation tax only if the attorney has no obligation for payment other than as agent for the client or equivalent commitment for their payment (See WAC 458-20-111, Advances and Reimbursements). Generally, such amounts will be for third party service providers (for example, accountants, appraisers, architects, artists, draftsmen, economists, engineers, investigators, physicians, etc.). However, these costs could also include client expenses for registration, licensing or maintenance fees, title and other insurance premiums, and escrow fees paid to third party escrow agents. These costs are excludable only when the attorney does not have any personal liability to the third party provider for their payment.

(iv) Records requirement. In order to support the exclusion from taxable gross income of any of the foregoing expenses, the attorney must maintain records which indicate the amount of the payment received from the client, the name of the client, the name of the person to whom the attorney has made payment, and a description of the item for which payment was made. If the foregoing expenses are incurred outside the context of litigation or contemplated litigation, the attorney must maintain records which indicate the amount of the payment received, the name of the client, and the person to whom the attorney makes payment. In addition, the attorney must provide the person to whom payment is made with written notice that (1) payment is made, or will be made on behalf of a named client, and (2) the attorney assumes no liability for payment, other than as agent for the named client.

(d) Excluded Services. The following legal services are excluded from the selected business services tax classification.

(i) Hazardous Waste. Legal, arbitration, or mediation services related to the identification, investigation, or cleanup arising out of the release or threatened release of hazardous substances when the services are performed to determine if a release of hazardous substances has occurred or is likely to occur are not taxable as selected business services, provided these services are itemized on the client's bill or invoice or are the primary activity provided to the client during the taxable reporting period. Income from these excluded services are taxable under the service and other business activities classification (See, WAC 458-20-224). A legal opinion specifically determining whether and to what extent a client is subject to federal and state law as it concerns hazardous waste identification, investigation, or cleanup

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would not be taxable as a selected business service. Arbitration or mediation services provided to resolve or negotiate settlement in a case determining the release of hazardous substances would also not be taxable as a selected business service.

(ii) Collective Investment Funds. Income derived from legal, arbitration, or mediation services provided to, performed for, on behalf of, or for the benefit of a collective investment fund is excluded from gross income under the selected business services classification. Income received from these clients is taxable under the service and other business activities classification (See, WAC 458-20-224).

(e) Multiple business activities. Attorneys and other persons engaged in providing legal, arbitration, and mediation services sometimes engage in other business activities which are classified under a different tax classification (i.e. escrow services, acting as the trustee for a trust, acting as the personal representative of an estate, etc.). In some circumstances, income from these other business activities will be subject to tax under a tax classification other than selected business services.

(i) Independent business activities. If the other activities engaged in by the person are independent from the legal, arbitration, or mediation services provided to the client, these activities are taxed based on the tax classification that applies to each of those other activities, provided these other activities are separately accounted for and/or itemized as a separate amount in billings or invoices to the client. Failure to separately account and/or itemize for such activities will result in classification of all activities under the selected business services classification. Legal activities specifically excluded from the selected business services tax classification will be treated as an independent business activity taxable under the other services and business activities tax classification, provided the excluded service is separately accounted for and/or itemized as a separate amount in billings or invoices to the client.

(ii) Combined business activities. If the other activities are related to the legal, arbitration, or mediation services provided to the client, the primary activity provided the client in each taxable period will determine the tax classification. Generally, the activity will be considered as related when there is some interaction between the two activities to reach an ultimate goal (i.e. a law firm which provides legal advice and brokers the financing of a business arrangement). There are a number of elements which may be examined to determine whether a sufficient relationship between the multiple activities exist. Some elements considered are the timing for the selection and provision of services, the relationship between the contracting parties, the procedure used in the selection process, the dependence of the relationship between the two or more activities, the relationship of the prices between the two activities, and the means of payment selected for the activities.

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

(A) A law firm has an escrow department. This escrow department is run by employees who are not attorneys (but the supervising employee is a limited practice officer who has experience as a certified escrow agent), has a separate phone number, separate bank account, separate trust account, separate computer system, and maintains its own accounting system. Contracts for the escrow services state that the law firm is being retained as an independent escrow agent and not to represent any person involved in the transaction. Further, the contract states that the law firm shall not offer legal advice upon the transaction. The escrow department of this law firm would be considered an independent business activity and be taxed separately under the retailing classification for escrow businesses (see, WAC 458-20-156).

(B) An attorney limits her practice to real estate. She primarily provides escrow services and real estate closings. Even though this attorney has chosen to limit her practice, it is the nature and the character of her activities which will determine the primary activity for each closing. When a closing includes the preparation, selection, or drafting of the deed between the purchaser and seller, drafting legal documents to obtain clear title, and/or the preparation, selection or drafting of the promissory notes, deeds of trust, mortgages, and agreements modifying these documents, it will be presumed that the primary activity performed for the client is providing these legal services.

(I) The attorney closed a real estate transaction performing all the escrow services. Except for the escrow services provided, the attorney represented the buyer in the closing. Although the attorney reviewed and approved the legal documents provided by the seller, the attorney did not prepare any legal documents for the transaction. Since the attorney was representing a specific client in this real estate closing, the escrow services are considered incidental to the legal services provided. Accordingly, she will report the income from this transaction under the selected business services classification.

(II) The attorney was engaged by both parties in a real estate transaction to handle a real estate closing. She selected and prepared the earnest money escrow agreement, the purchase and sales agreement, the closing agreement, and the deeds for the transfer. Title was clear and did not require any additional drafting. The attorney also entered into an escrow agreement with both parties and held in escrow the buyer's deposit and the seller's deed. Since the attorney was required to select, analyze, and review the legal documents in this transaction, the escrow activity will be considered incidental. This closing is reported under the selected business services classification for legal services.

(III) A certified escrow agency, owned by a principal qualified under APR 12 (the limited practice rule for limited practice officers), provides both escrow and the limited legal services allowed under APR 12 to its clients. The escrow company itemizes the services provided. APR 12(d) allows a limited practice officer to select, prepare and complete documents in a form previously approved by the Board for use in closing a loan, extension of credit, sale or other transfer of real or personal property. The nature of this limited license prevents an escrow company using limited practice officers from ever engaging in legal services as a primary activity in a real estate closing. Accordingly, the escrow company will report the income from escrow and closings under the retail sales classification (see, WAC 458-20-156).

(IV) The same facts as above, but the escrow company hires employees who are attorneys to provide the allowable limited legal services. The result is the same. Under RPC 5.4, an attorney is prohibited from sharing legal fees with a nonlawyer and, under RPC 5.5, cannot assist a person who is not a member of the Bar in the performance of an activity that constitutes the unauthorized practice of law, and under RPC 7.1 a lawyer cannot make false or misleading communications about the lawyer or the lawyer's services. Accordingly, an attorney hired by an escrow company would not be providing legal services to the escrow companies clients except to the extent authorized for a limited practice officer. Since only limited legal services can be offered, the escrow company would continue to report all fees from both the escrow and closing services under the retail sales tax classification.

(V) An attorney acts as the trustee for a testamentary trust which the attorney drafted. The attorney maintains the trust records, invests the assets of the trust, reviews distributions, accounts for trust assets, earnings, and distributions to the trust beneficiaries, and files all required returns and forms for the trust. The trust pays an annual fee for these services. On occasion, the attorney provides general legal advice to the trust which is billed to the trust at an hourly rate. After the death of the settlor, the primary activity engaged in by the attorney for this client is that of trustee. Accordingly, the gross income from the trust administration activities after the death of the settlor are taxed separately under the other service and business activities classification. The separately accounted for legal services are taxed under the selected business services rate.

(VI) An attorney acts as the trustee for an inter-vivos trust which the attorney drafted. After being appointed trustee, the attorney continues to represent the settlor of the trust (who is also the primary beneficiary) and provides legal advice to the trust. The attorney is paid an annual fee for duties as a trustee and an hourly rate for legal services. The initial relationship between the parties was that of attorney and client. The attorney continues to actively maintain this relationship and provides legal services to the settlor and the trust. Accordingly, the primary activity engaged in by the attorney for this client is that of attorney. The gross income from this activity would be taxed under the selected business services classification. However, if the inter-vivos trust was an excluded services trust (i.e. a charitable lead trust) any legal services provided the trust would be reported under the other service and business activities classification.

(4) **Retail Sales Tax**

Sales of tangible personal property to attorneys for use in rendering professional services are retail sales upon which the retail sales tax must be collected. Such sales include, among others, sales of office furniture and equipment, stationery, office supplies, law books, and reference materials.

(5) **Use Tax.**

(a) The use tax applies upon the use of articles purchased or manufactured for use upon which retail sales tax has not been paid or collected. This includes but is not limited to the following:

(i) Materials used and consumed while rendering legal, arbitration, or mediation services, and

(ii) Office supplies and office equipment purchased by the firm for its own use.

(b) The use tax also applies to all purchases of tangible personal property acquired without payment of retail sales tax and resold to clients but not separately stated from legal services rendered on the agency's billing.

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

PROPOSED

WSR 95-11-041
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 10, 1995, 11:17 a.m.]

Original Notice.

Title of Rule: Amending WAC 458-40-660 Timber excise tax—Stumpage value tables and 458-40-670 Timber excise tax—Stumpage value adjustments.

Purpose: The amendment of WAC 458-40-660 is for the purpose of adjusting stumpage values every six months in compliance with existing law. The amendment of WAC 458-40-670 is to update adjustments allowed to harvesters of timber; there are no proposed changes to these adjustments for the second half of 1995.

Statutory Authority for Adoption: RCW 82.32.300 and 84.33.096.

Statute Being Implemented: RCW 84.33.091.

Summary: These rules inform timber harvesters of the stumpage values to be used for the last half of 1995 for purposes of calculation of the forest excise tax and also to inform harvesters of the stumpage value adjustments allowed.

Reasons Supporting Proposal: These amendments are necessary to comply with legislative requirements and to enable timber harvesters to properly report and calculate timber harvested and the amount of tax owed.

Name of Agency Personnel Responsible for Drafting: James A. Winterstein, 711 Capitol Way South, #303, Olympia, WA, (360) 754-2854; Implementation and Enforcement: Gary O'Neil, 2735 Harrison N.W., Building No. 4, Olympia, WA, (360) 753-2871.

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: WAC 458-40-660 contains the stumpage value tables for the last half of 1995. WAC 458-40-670 shows the stumpage value adjustments for the last half of 1995; these have not changed from the adjustments allowed for the first half of 1995.

Proposal Changes the Following Existing Rules: See above description.

Has a Small Business Economic Impact Statement Been Prepared under Chapter 19.85 RCW? No. The Department of Revenue has reviewed administrative provisions contained in these rules in order to determine the economic impact on small businesses. The proposed amendments to these rules will have minor or negligible economic impact.

PROPOSED

Hearing Location: Department of Revenue Conference Room, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, WA, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request of copy of the information in an alternate format contact Sandra Chan, TDD 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: James A Winterstein, Counsel, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693, by June 27, 1995

Date of Intended Adoption: June 30, 1995.

May 10, 1995
Russell W. Brubaker
Assistant Director

AMENDATORY SECTION (Amending WSR 95-02-038, filed 12/30/94, effective 1/1/95)

WAC 458-40-660 Timber excise tax—Stumpage value tables. The following stumpage value tables are hereby adopted for use in reporting the taxable value of stumpage harvested during the period ((~~January~~)) July 1 through ((~~June 30~~)) December 30, 1995:

((~~**TABLE 1 Stumpage Value Table**~~
~~**Stumpage Value Area 1**~~
~~January 1 through June 30, 1995~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]~~

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$927	$920	$913	$906	$899
		2	872	865	858	851	844
		3	724	717	710	703	696
		4	611	604	597	590	583
Western Redcedar[2]	RC	1	1072	1065	1058	1051	1044
		2	970	963	956	949	942
		3	960	953	946	939	932
		4	442	435	428	421	414
Western Hemlock[3]	WH	1	560	553	546	539	532
		2	474	467	460	453	446
		3	452	445	438	431	424
		4	337	330	323	316	309
Other Conifer	OC	1	560	553	546	539	532
		2	474	467	460	453	446
		3	452	445	438	431	424
		4	337	330	323	316	309
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood[4]	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts[5]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[6]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[6]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Alaska Cedar.
[3] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[4] Stumpage value per ton.
[5] Stumpage value per 8 lineal feet or portion thereof.
[6] Stumpage value per lineal foot.

TABLE 2 Stumpage Value Table
Stumpage Value Area 2
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$858	$851	$844	$837	$830
		2	791	784	777	770	763
		3	645	638	631	624	617
		4	529	522	515	508	501
Western Redcedar[2]	RC	1	1072	1065	1058	1051	1044
		2	1046	1039	1032	1025	1018
		3	636	629	622	615	608
		4	348	341	334	327	320
Western Hemlock[3]	WH	1	565	558	551	544	537
		2	501	494	487	480	473
		3	476	469	462	455	448
		4	397	390	383	376	369
Other Conifer	OC	1	565	558	551	544	537
		2	501	494	487	480	473
		3	476	469	462	455	448
		4	397	390	383	376	369
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood[4]	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts[5]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[6]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[6]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Alaska Cedar.
[3] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[4] Stumpage value per ton.
[5] Stumpage value per 8 lineal feet or portion thereof.
[6] Stumpage value per lineal foot.

TABLE 3 Stumpage Value Table
Stumpage Value Area 3
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir	DF	1	$846	$839	$832	$825	$818
		2	814	807	800	793	786
		3	658	651	644	637	630
		4	602	595	588	581	574
Western Redcedar[2]	RC	1	1072	1065	1058	1051	1044
		2	999	992	985	978	971
		3	750	743	736	729	722
		4	463	456	449	442	435
Western Hemlock[3]	WH	1	543	536	529	522	515
		2	492	485	478	471	464
		3	486	479	472	465	458
		4	384	377	370	363	356
Other Conifer	OC	1	543	536	529	522	515
		2	492	485	478	471	464
		3	486	479	472	465	458
		4	384	377	370	363	356
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood[4]	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts[5]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[6]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[6]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Alaska Cedar.
[3] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[4] Stumpage value per ton.
[5] Stumpage value per 8 lineal feet or portion thereof.
[6] Stumpage value per lineal foot.

TABLE 4 Stumpage Value Table
Stumpage Value Area 4
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir[2]	DF	1	$989	$982	$975	$968	$961
		2	788	781	774	767	760
		3	656	649	642	635	628
		4	530	523	516	509	502
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar[3]	RC	1	1072	1065	1058	1051	1044
		2	886	879	872	865	858
		3	796	789	782	775	768
		4	329	322	315	308	301
Western Hemlock[4]	WH	1	543	536	529	522	515
		2	524	517	510	503	496
		3	511	504	497	490	483
		4	355	348	341	334	327
Other Conifer	OC	1	543	536	529	522	515
		2	524	517	510	503	496
		3	511	504	497	490	483
		4	355	348	341	334	327
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood[5]	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[7]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Western Larch.
[3] Includes Alaska Cedar.
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[5] Stumpage value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot.

TABLE 5 Stumpage Value Table
Stumpage Value Area 5
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir[2]	DF	1	$885	$878	$871	$864	$857
		2	810	803	796	789	782
		3	499	492	485	478	471
		4	498	491	484	477	470
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar[3]	RC	1	1072	1065	1058	1051	1044
		2	998	991	984	977	970
		3	543	536	529	522	515
		4	542	535	528	521	514

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Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Western Hemlock[4]	WH	1	543	536	529	522	515
		2	492	485	478	471	464
		3	467	460	453	446	439
		4	411	404	397	390	383
Other Conifer	OC	1	543	536	529	522	515
		2	492	485	478	471	464
		3	467	460	453	446	439
		4	411	404	397	390	383
Red Alder	RA	1	186	179	172	165	158
		2	150	143	136	129	122
		3	47	40	33	26	19
Black Cottonwood	BC	1	159	152	145	138	131
		2	145	138	131	124	117
		3	47	40	33	26	19
Other Hardwood	OH	1	140	133	126	119	112
		2	108	101	94	87	80
		3	47	40	33	26	19
Chipwood[5]	CHW	1	13	12	11	10	9
RC Shake Blocks	RCS	1	315	308	301	294	287
RC Shingle Blocks	RCF	1	126	119	112	105	98
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[7]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Western Larch.
[3] Includes Alaska Cedar.
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[5] Stumpage value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot.

TABLE 6 Stumpage Value Table
Stumpage Value Area 6
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir[2]	DF	1	$424	$417	$410	$403	$396
Engelmann Spruce	ES	1	362	355	348	341	334
Lodgepole Pine	LP	1	362	355	348	341	334
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar[3]	RC	1	362	355	348	341	334
True Firs[4]	WH	1	362	355	348	341	334
Western White Pine	WP	1	571	564	557	550	543
Hardwoods	OH	1	29	22	15	8	1
Small Logs[5]	SML	1	32	31	30	29	28
Chipwood[5]	CHW	1	7	6	5	4	3
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts[6]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[7]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Western Larch.
[3] Includes Alaska Cedar.
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[5] Stumpage value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[8] Stumpage value per lineal foot.

TABLE 7 Stumpage Value Table
Stumpage Value Area 7
January 1 through June 30, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas Fir[2]	DF	1	$354	$347	$340	$333	$326
Engelmann Spruce	ES	1	268	261	254	247	240
Lodgepole Pine	LP	1	310	303	296	289	282
Ponderosa Pine	PP	1	541	534	527	520	513
		2	364	357	350	343	336
Western Redcedar[3]	RC	1	571	564	557	550	543
True Firs[4]	WH	1	305	298	291	284	277
Western White Pine	WP	1	571	564	557	550	543
Hardwoods	OH	1	29	22	15	8	1
Small Logs[5]	SML	1	21	20	19	18	17
Chipwood[5]	CHW	1	7	6	5	4	3
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts[6]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[7]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.
[2] Includes Western Larch.
[3] Includes Alaska Cedar.
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."
[5] Stumpage value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[8] Stumpage value per lineal foot.

~~TABLE 8—Stumpage Value Table~~
~~Stumpage Value Area 10~~
~~January 1 through June 30, 1995~~

~~Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]~~

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
~~Douglas-fir[2]~~	~~DF~~	~~1~~	~~$975~~	~~$968~~	~~$961~~	~~$954~~	~~$947~~
		~~2~~	~~774~~	~~767~~	~~760~~	~~753~~	~~746~~
		~~3~~	~~642~~	~~635~~	~~628~~	~~621~~	~~614~~
		~~4~~	~~516~~	~~509~~	~~502~~	~~495~~	~~488~~
~~Lodgepole Pine~~	~~LP~~	~~1~~	~~362~~	~~355~~	~~348~~	~~341~~	~~334~~
~~Ponderosa Pine~~	~~PP~~	~~1~~	~~541~~	~~534~~	~~527~~	~~520~~	~~513~~
		~~2~~	~~364~~	~~357~~	~~350~~	~~343~~	~~336~~
~~Western Redcedar[3]~~	~~RC~~	~~1~~	~~1058~~	~~1051~~	~~1044~~	~~1037~~	~~1030~~
		~~2~~	~~872~~	~~865~~	~~858~~	~~851~~	~~844~~
		~~3~~	~~782~~	~~775~~	~~768~~	~~761~~	~~754~~
		~~4~~	~~315~~	~~308~~	~~301~~	~~294~~	~~287~~
~~Western Hemlock[4]~~	~~WH~~	~~1~~	~~529~~	~~522~~	~~515~~	~~508~~	~~501~~
		~~2~~	~~510~~	~~503~~	~~496~~	~~489~~	~~482~~
		~~3~~	~~497~~	~~490~~	~~483~~	~~476~~	~~469~~
		~~4~~	~~341~~	~~334~~	~~327~~	~~320~~	~~313~~
~~Other Conifer~~	~~OC~~	~~1~~	~~529~~	~~522~~	~~515~~	~~508~~	~~501~~
		~~2~~	~~510~~	~~503~~	~~496~~	~~489~~	~~482~~
		~~3~~	~~497~~	~~490~~	~~483~~	~~476~~	~~469~~
		~~4~~	~~341~~	~~334~~	~~327~~	~~320~~	~~313~~
~~Red Alder~~	~~RA~~	~~1~~	~~172~~	~~165~~	~~158~~	~~151~~	~~144~~
		~~2~~	~~136~~	~~129~~	~~122~~	~~115~~	~~108~~
		~~3~~	~~33~~	~~26~~	~~19~~	~~12~~	~~5~~
~~Black Cottonwood~~	~~BC~~	~~1~~	~~145~~	~~138~~	~~131~~	~~124~~	~~117~~
		~~2~~	~~131~~	~~124~~	~~117~~	~~110~~	~~103~~
		~~3~~	~~33~~	~~26~~	~~19~~	~~12~~	~~5~~
~~Other Hardwood~~	~~OH~~	~~1~~	~~126~~	~~119~~	~~112~~	~~105~~	~~98~~
		~~2~~	~~94~~	~~87~~	~~80~~	~~73~~	~~66~~
		~~3~~	~~33~~	~~26~~	~~19~~	~~12~~	~~5~~
~~Chipwood[5]~~	~~CHW~~	~~1~~	~~12~~	~~11~~	~~10~~	~~9~~	~~8~~
~~RC Shake Blocks~~	~~RCS~~	~~1~~	~~315~~	~~308~~	~~301~~	~~294~~	~~287~~
~~RC Shingle Blocks~~	~~RCF~~	~~1~~	~~126~~	~~119~~	~~112~~	~~105~~	~~98~~
~~RC & Other Posts[6]~~	~~RCP~~	~~1~~	~~0.45~~	~~0.45~~	~~0.45~~	~~0.45~~	~~0.45~~
~~DF Christmas Trees[7]~~	~~DFX~~	~~1~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~	~~0.25~~
~~Other Christmas Trees[8]~~	~~TFX~~	~~1~~	~~0.50~~	~~0.50~~	~~0.50~~	~~0.50~~	~~0.50~~

~~[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and 458-40-686.~~
~~[2] Includes Western Larch.~~
~~[3] Includes Alaska Cedar.~~
~~[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."~~
~~[5] Stumpage value per ton.~~
~~[6] Stumpage value per 8 lineal feet or portion thereof.~~
~~[7] Stumpage value per lineal foot.~~))

PROPOSED

TABLE 1—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$855	$848	$841	$834	$827
		2	727	720	713	706	699
		3	675	668	661	654	647
		4	473	466	459	452	445
Western Redcedar[2]	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	1117	1110	1103	1096	1089
		4	292	285	278	271	264
Western Hemlock[3]	WH	1	570	563	556	549	542
		2	444	437	430	423	416
		3	427	420	413	406	399
		4	395	388	381	374	367
Other Conifer	OC	1	570	563	556	549	542
		2	444	437	430	423	416
		3	427	420	413	406	399
		4	395	388	381	374	367
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood[4]	CHW	1	28	27	26	25	24
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts[5]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[6]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[6]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Alaska-cedar
[3] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[4] Stumpage Value per ton.
[5] Stumpage value per 8 lineal feet or portion thereof.
[6] Stumpage value per lineal foot.

TABLE 2—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$1,052	$1,045	$1,038	$1,031	$1,024
		2	753	746	739	732	725
		3	667	660	653	646	639
		4	479	472	465	458	451
Western Redcedar[2]	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	920	913	906	899	892
		4	277	270	263	256	249
Western Hemlock[3]	WH	1	478	471	464	457	450
		2	478	471	464	457	450
		3	465	458	451	444	437
		4	399	392	385	378	371

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Other Conifer	OC	1	478	471	464	457	450
		2	478	471	464	457	450
		3	465	458	451	444	437
		4	399	392	385	378	371
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood[4]	CHW	1	28	27	26	25	24
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts[5]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[6]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[6]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Alaska-cedar
[3] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[4] Stumpage Value per ton.
[5] Stumpage value per 8 lineal feet or portion thereof.
[6] Stumpage value per lineal foot.

TABLE 3—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir	DF	1	$865	$858	$851	$844	$837
		2	696	689	682	675	668
		3	651	644	637	630	623
		4	379	372	365	358	351
Western Redcedar[2]	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	764	757	750	743	737
		4	329	322	315	308	301
Western Hemlock[3]	WH	1	506	499	492	485	478
		2	465	458	451	444	437
		3	456	449	442	435	428
		4	372	365	358	351	344
Other Conifer	OC	1	506	499	492	485	478
		2	465	458	451	444	437
		3	456	449	442	435	428
		4	372	365	358	351	344
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood[4]	CHW	1	28	27	26	25	24
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts[5]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[6]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[6]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Alaska-cedar
[3] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[4] Stumpage Value per ton.
[5] Stumpage value per 8 lineal feet or portion thereof.
[6] Stumpage value per lineal foot.

TABLE 4—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir[2]	DF	1	$841	$834	$827	$820	$813
		2	728	721	714	707	700
		3	667	660	653	646	639
		4	462	455	448	441	434
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar[3]	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	911	904	897	890	883
		4	289	282	275	268	261
Western Hemlock[4]	WH	1	466	459	452	445	438
		2	443	436	429	422	415
		3	400	393	386	379	372
		4	310	303	296	289	282
Other Conifer	OC	1	466	459	452	445	438
		2	443	436	429	422	415
		3	400	393	386	379	372
		4	310	303	296	289	282
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood[5]	CHW	1	28	27	26	25	24
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[7]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Western Larch
[3] Includes Alaska-cedar
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[5] Stumpage Value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot.

TABLE 5—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir[2]	DF	1	$819	$812	$805	$798	$791
		2	743	736	729	722	715
		3	617	610	603	596	589
		4	531	524	517	510	503
Lodgepole Pine	LP	1	321	314	307	300	293

Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar[3]	RC	1	1204	1197	1190	1183	1176
		2	1204	1197	1190	1183	1176
		3	898	891	884	877	870
		4	269	262	255	248	241
Western Hemlock[4]	WH	1	496	489	482	475	468
		2	439	432	425	418	411
		3	380	373	366	359	352
		4	362	355	348	341	334
Other Conifer	OC	1	496	489	482	475	468
		2	439	432	425	418	411
		3	380	373	366	359	352
		4	362	355	348	341	334
Red Alder	RA	1	107	100	93	86	79
		2	82	75	68	61	54
		3	62	55	48	41	34
Black Cottonwood	BC	1	81	74	67	60	53
		2	66	59	52	45	38
		3	62	55	48	41	34
Other Hardwood	OH	1	80	73	66	59	52
		2	80	73	66	59	52
		3	62	55	48	41	34
Chipwood[5]	CHW	1	28	27	26	25	24
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[7]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Western Larch
[3] Includes Alaska-cedar
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[5] Stumpage Value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot.

TABLE 6—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 6
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir[2]	DF	1	$446	$439	$432	$425	$418
Engelmann Spruce	ES	1	383	376	369	362	355
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar[3]	RC	1	472	465	458	451	444
True Firs[4]	WH	1	364	357	350	343	336
Western White Pine	WP	1	498	491	484	477	470
Hardwoods	OH	1	50	43	36	29	22
Small Logs[5]	SML	1	34	33	32	31	30
Chipwood[5]	CHW	1	14	13	12	11	10
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts[6]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[7]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Western Larch
[3] Includes Alaska-cedar
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[5] Stumpage Value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[8] Stumpage value per lineal foot.

TABLE 7—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 7
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir[2]	DF	1	$446	$439	$432	$425	$418
Engelmann Spruce	ES	1	383	376	369	362	355
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414
Western Redcedar[3]	RC	1	472	465	458	451	444
True Firs[4]	WH	1	364	357	350	343	336
Western White Pine	WP	1	498	491	484	477	470
Hardwoods	OH	1	50	43	36	29	22
Small Logs[5]	SML	1	20	19	18	17	16
Chipwood[5]	CHW	1	11	10	9	8	7
RC Shake & Shingle Blocks	RCF	1	92	85	78	71	64
LP & Other Posts[6]	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees[7]	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	DFX	1	0.25	0.25	0.25	0.25	0.25

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Western Larch
[3] Includes Alaska-cedar
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[5] Stumpage Value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
[8] Stumpage value per lineal foot.

TABLE 8—STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
July 1 through December 31, 1995

Stumpage Values per Thousand Board Feet Net Scribner Log Scale[1]

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number 1	2	3	4	5
Douglas-fir[2]	DF	1	$827	$820	$813	$806	$799
		2	714	707	700	693	686
		3	653	646	639	632	625
		4	448	441	434	427	420
Lodgepole Pine	LP	1	321	314	307	300	293
Ponderosa Pine	PP	1	567	560	553	546	539
		2	442	435	428	421	414

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Western Redcedar[3]	RC	1	1190	1183	1176	1169	1162
		2	1190	1183	1176	1169	1162
		3	897	890	883	876	869
		4	275	268	261	254	247
Western Hemlock[4]	WH	1	452	445	438	431	424
		2	429	422	415	408	401
		3	386	379	372	365	358
		4	296	289	282	275	268
Other Conifer	OC	1	452	445	438	431	424
		2	429	422	415	408	401
		3	386	379	372	365	358
		4	296	289	282	275	268
Red Alder	RA	1	93	86	79	72	65
		2	68	61	54	47	40
		3	48	41	34	27	20
Black Cottonwood	BC	1	67	60	53	46	39
		2	52	45	38	31	24
		3	48	41	34	27	20
Other Hardwood	OH	1	66	59	52	45	38
		2	66	59	52	45	38
		3	48	41	34	27	20
Chipwood[5]	CHW	1	28	27	26	25	24
RC Shake Blocks	RCS	1	310	303	296	289	282
RC Shingle Blocks	RCF	1	118	111	104	97	90
RC & Other Posts[6]	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees[7]	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees[8]	TFX	1	0.50	0.50	0.50	0.50	0.50

[1] Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-684 and WAC 458-40-686.
[2] Includes Western Larch
[3] Includes Alaska-cedar
[4] Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir".
[5] Stumpage Value per ton.
[6] Stumpage value per 8 lineal feet or portion thereof.
[7] Stumpage value per lineal foot.

AMENDATORY SECTION (Amending WSR 94-14-048, filed 6/30/94, effective 7/1/94)

WAC 458-40-670 Timber excise tax—Chipwood and small log destinations and stumpage value adjustments. (1) **Chipwood destinations.** The businesses operating at the following locations are in the business of processing logs to produce chips or chip products. Logs delivered to the log yards listed below for the purpose of being chipped may be reported as chipwood **and have the volume measured by weight**:

Boise Cascade (Umatilla, OR)
Brady Chip (Shelton)
Bullfrog (Cle Elum)
Cavenham (Cathlamet)
Columbia Fiber (Kalama)
DaPaul (Tumwater)
Diashowa (Port Angeles)
D K Truck (Beaver, Hoquiam, Montesano, Quinault, Shelton)
Dodge Logging Inc. (Champion Reload, Glenwood)
Douglas County Forest Products (Centralia)
((~~Edmonds~~)) **Edman** Company (Tacoma, Road 6 Rock Pit-Kapowsin Tree Farm)
Georgia Pacific (Bellingham)
Granger Company or Resource Recovery (Clarkston)
James River Corporation (Wauna, OR)
Mountain Fir Chip Co. (Clarkston, The Dalles, OR)
North Mason Fiber (Belfair)
Northwest Forest Fiber (Morton, North Bend, Tacoma)
Local Manufacturing (Aberdeen)
Oakville Forest Products (Oakville)
Olympic Fiber (Aberdeen)
Pacific Fiber (Longview)
Ponderay Valley Fiber (Usk)
Port Townsend Paper or Evergreen Fiber (Irondale)
Rayonier Pulp (Port Angeles)
Scott Paper (Everett)
((~~Solo Leasing (Longview)~~))
S.V. Pullen, Inc. (Shelton)
Warrenton Fiber or Nygaards (Warrenton, OR)
((~~Weyerhaeuser (Cosmopolis)~~))
Weyerhaeuser Silvacel (Hardwood at Snoqualmie Falls)

(a) A log processor that is not listed and is in the business of processing logs to produce chips or chip products may apply to the Department of Revenue, Forest Tax Section, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, Washington to be included in this listing. To qualify, not less than ninety percent of the weight volume of logs delivered to and purchased by the log processor at a specified log yard or location must be processed to produce chips or chip products.

(b) Any applicant seeking administrative review of the department's decision under (a) of this subsection may appeal the decision in accordance with WAC 458-20-100.

(2) Logs chipped in the woods may also be reported as chipwood. Volume shall be measured in net weight of green chips ((~~and sufficient, satisfactory documentation of volume shall be provided to the department at the time of reporting~~)).

(3) Logs processed at locations other than those listed in subsection (1) of this section and other than as provided in subsection (2) of this section may be reported as chipwood ~~only when the harvester provides the department with sufficient, satisfactory documentation to accurately show the specific volume of logs processed to produce chips or chip products, measured in net weight of green chips. A sample log scaling showing volume of utility grade logs is not, by itself, sufficient for purposes of reporting the volume of chipwood~~)) **volume when scaled as utility grade logs, based upon log scaling or upon approved sample log scaling methods. Harvesters reporting chipwood volume at locations other than those listed in subsection (1) of this section and other than as provided in subsection (2) of this section when there has been no log scaling or approved sample log scaling will have the chipwood volume so reported converted by the department to appropriate sawlog volume in accordance with WAC 458-40-684 and 458-40-686 for purposes of timber excise taxation.**

(4) **Small log destinations.** The businesses operating at the following locations are in the business of processing small logs as defined in WAC 458-40-610.

Longview Fibre Co. (Winton)
Vaagen Brothers Lumber Co. (Colville, **Ione, Ponderay Valley Sort Yard, Republic**)

(a) A log processor that is not listed and is in the business of processing small logs as defined in WAC 458-40-610 may apply to the Department of Revenue, Forest Tax Section, Target Place Building No. 4, 2735 Harrison Avenue N.W., Olympia, Washington to be included in this listing.

(b) Any applicant seeking administrative review of the department's decision under (a) of this subsection may appeal the decision in accordance with WAC 458-20-100.

(5) **Harvest value adjustments.** Harvest value adjustments relating to the various logging and harvest conditions shall be allowed against the stumpage values as set forth in WAC 458-40-660 for the designated stumpage value areas with the following limitations:

((~~(1)~~)) (a) No harvest adjustment shall be allowed against special forest products, chipwood, or small logs as those terms are defined in WAC 458-40-610.

((~~(2)~~)) (b) Stumpage value rates for conifer and hardwoods shall be adjusted to a value no lower than one dollar per MBF.

((~~(3)~~)) (c) Timber harvesters planning to remove timber from areas having damaged timber or other unforeseen materially increased harvesting costs may apply to the department for adjustment in stumpage values. Such applications should contain a map with the legal descriptions of the area, a description of the damage sustained by the timber or cause of additional costs, and a list of estimated costs to be incurred. Such applications shall be sent to the department before the harvest commences. Upon receipt of such application, the department will determine the amount of adjustment allowed, and notify the harvester. Such amount may be taken as a credit against tax liabilities or, if harvest is terminated, a refund may be authorized. In the event the extent of such timber damage or additional costs are not known at the time the application is filed, the harvester may supplement the application not later than ninety days following completion of the harvest unit.

(6) The following harvest adjustment tables are hereby adopted for use during the period of ((~~January~~)) July 1 through ((~~June 30~~)) December 31, 1994:

TABLE 1—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 10
((~~January~~)) July 1 through ((~~June 30~~)) December, 1995

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 40 thousand board feet per acre.	$0.00
Class 2	Harvest of 20 thousand board feet to 40 thousand board feet per acre.	- $4.00
Class 3	Harvest of 10 thousand board feet to but not including 20 thousand board feet per acre.	- $7.00
Class 4	Harvest of 5 thousand board feet to but not including 10 thousand board feet per acre.	- $9.00
Class 5	Harvest of less than 5 thousand board feet per acre.	- $10.00
II. Logging conditions		
((~~Class 1~~	~~Generally slopes less than 40%. No significant rock outcrops or swamp barriers.~~	~~$0.00~~
~~Class 2~~	~~Generally slopes between 40% and 60%. Some rock outcrops or swamp barriers.~~	~~$17.00~~
~~Class 3~~	~~Generally rough, broken ground with slopes in excess of 60%. Numerous rock outcrops and bluffs.~~	~~$25.00~~))
Class 1	Most of the harvest unit has less than 30% slope. No Significant rock outcrops or swamp barriers.	0.00
Class 2	Most of the harvest unit has slopes between 30% and 60%. Some rock outcrops or swamp barriers.1	-$17.00
Class 3	Most of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-$25.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- $69.00

1. A Class 2 adjustment may be used for slopes less than 30% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department.

III. Remote island adjustment:

For timber harvested from a remote island	- $50.00

IV. Thinning (see WAC 458-40-610((~~(20)~~)) (21))

Class 1	Average log volume of 50 board feet or more.	- $25.00
Class 2	Average log volume of less than 50 board feet.	- $35.00

TABLE 2—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
((~~January~~)) July 1 through ((~~June 30~~)) December 31, 1994

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	$0.00
Class 2	Harvest of 3 thousand board feet to 8 thousand board feet per acre.	- $7.00
Class 3	Harvest of less than 3 thousand board feet per acre.	- $10.00
II. Logging conditions		
Class 1	Generally slopes less than 40%. No significant rock outcrops or swamp barriers.	$0.00
Class 2	Generally slopes between 40% and 60%. Some rock outcrops or swamp barriers.	- $20.00
Class 3	Generally rough, broken ground with slopes in excess of 60%. Numerous rock outcrops and bluffs.	- $30.00
Class 4	For logs which are yarded from stump to landing by helicopter. This does not include special forest products.	- $69.00
III. Remote island adjustment:		
	For timber harvested from a remote island	- $50.00

TABLE 3—Domestic Market Adjustment

Public Timber

Harvest of timber not sold by a competitive bidding process which is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber which must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

PROPOSED

Federal Timber Sales: All species except Alaska Yellow Cedar. (Stat. Ref. - 36 CFR 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Red Cedar only. (Stat. Ref. - 50 USC appendix 2406.1)

Private timber

Harvest of private timber which is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i); a Cooperative Sustained Yield Unit Agreement made pursuant to the Act of March 29, 1944, (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The adjustment amounts shall be as follows:

Class 1:	SVA's 1 through 6, and 10	$0.00 per MBF
Class 2:	SVA 7	$0.00 per MBF

Note: The adjustment will not be allowed on special forest products.

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

Reviser's note: The typographical 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 95-11-049
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 10, 1995, 3:28 p.m.]

Original Notice.

Title of Rule: WAC 388-517-1710 Medicare "buy-in" program, 388-517-1715 Qualified Medicare beneficiary (QMB) eligible for Medicare cost sharing, 388-517-1730 Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing, and 388-517-1750 Hospital premium insurance enrollment for the qualified disabled working individuals (QDWI).

Proposal: Evergreen Legal Services requested this amendment to ensure understanding of field staff as to which clients are eligible for buy-in, qualified Medicare beneficiary, special low-income Medicare beneficiaries, and qualified disabled working individuals Medicare cost-sharing programs.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: Ensure understanding of field staff as to which clients are eligible for buy-in, QMB, SLMB, and QDWI medical cost-sharing programs.

Reasons Supporting Proposal: This proposed amendment is being made at the request of Evergreen Legal Services. There is currently no regulation defining who is eligible for buy-in.

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. These proposed amendments have neither an economic impact nor regulatory impact on any business. The amendments concern an eligibility process and affect only department staff.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by June 13, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting 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 June 20, 1995.

Date of Intended Adoption: June 28, 1995.

May 10, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1710 Medicare "buy-in" program. (1) The department shall pay Medicare "buy-in" for a person entitled to Medicare Part A and who receives:

(a) AFDC cash grant;

(b) SSI cash assistance;

(c) Categorically needy medical assistance; or

(d) Medically needy medical assistance.

(2) For a person eligible under subsection (1) of this section and subject to limitations under chapter 388-87 WAC, the department shall pay for ((~~an otherwise eligible person~~)):

(a) Supplementary medical insurance Part B premium, under Title XVIII of the Social Security Act;

(b) Coinsurance; and

(c) Deductibles.

(((~~2~~))) (3) In addition to subsection (((~~1~~))) (2) of this section, the department shall pay Part A coinsurance and deductibles, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1715 and 388-517-1720.

(((~~3~~))) (4) The department shall only pay the Part B premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1730 and 388-517-1740.

((~~(4)~~)) (5) The department shall only pay Part A premium, under Title XVIII of the Social Security Act, for a person eligible under WAC 388-517-1750 and 388-517-1760.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1715 Qualified Medicare beneficiary (QMB) eligible for Medicare cost sharing. The department shall provide Medicare cost sharing under WAC 388-517-1710((~~(2)~~))(3) for a person:

(1) Meeting the general nonfinancial requirements for an SSI-related person under chapter ((~~388-505~~)) 388-511 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1730 Special low-income Medicare beneficiaries (SLMB) eligible for Medicare cost sharing. The department shall provide Medicare cost sharing under WAC 388-517-1710((~~(3)~~))(4) for a person:

(1) Meeting the general nonfinancial requirements for an SSI-related person under ((~~WAC 388-504-0400~~)) chapter 388-511 WAC; and

(2) Entitled to Medicare hospital insurance benefits, Part A, under Title XVIII of the Social Security Act.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1750 Hospital premium insurance enrollment for the qualified disabled working individuals (QDWI). The department shall pay premiums for Medicare Part A under WAC 388-517-1710(4) for ((~~a~~)) an SSI-related person:

(1) Who is not otherwise entitled to medical assistance; and

(2) Entitled to enroll for Medicare hospital insurance benefits, Part A, under section 1818A of the Social Security Act.

WSR 95-11-050
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 10, 1995, 3:29 p.m.]

Original Notice.

Title of Rule: WAC 388-216-2150 Resources—Jointly owned resources, 388-216-2450 Resources—Exempt or disregarded income which is also exempt as a resource, 388-216-2650 Resources—Exempt within a ceiling value, and 388-216-2800 Resources—Value.

Purpose: WAC 388-216-2150, adds provisions to exclude and bank account jointly owned by an AFDC recipient and an SSI recipient if the funds are counted for SSI purposes; WAC 388-216-2450, adds payments to victims of NAZI persecution as an exempt resource and payments from the Colville Reservation Settlement Act; WAC 388-216-2650, adds provisions to determine the equity value of a vehicle jointly owned by an AFDC and an SSI recipient; and WAC 388-216-2800, adds provisions to determine the equity value and availability of a vehicle jointly owned by an AFDC and an SSI recipient.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: See Purpose above.

Reasons Supporting Proposal: Updates specified sections of chapter 388-216 WAC to clarify language in existing WAC and adds new provisions per federal statute.

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

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

Rule is necessary because of federal law, federal court decision, and state court decision: P.L. 103-286 and Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act.

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. These amendments impact the AFDC program only, and do not affect small business.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by June 13, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting 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 June 20, 1995.

Date of Intended Adoption: June 28, 1995.

May 10, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2150 Resources—Jointly owned resources. When a client and another person jointly own a resource, the department shall determine the client's ownership interest as described below. The department shall use any portion of a resource which is owned by and available to a client to determine eligibility.

(1) When a client has less than full ownership or full title to real or personal property, the department shall use the client's share of the equity ((~~in his or her fractional interest in the~~)) value of the resource to determine eligibility.

PROPOSED

(2) A client has less than full title to real or personal property when the title is shared with some person other than a spouse, contract vendor, mortgage, or lien holder.

(3) The department shall determine whether a client owns part or all of any cash funds which are held by the client or held jointly by the client and any other person.

(a) Since the entire amount of the cash fund is at the client's disposal, the department shall presume a client owns all funds in:

(i) A joint account;

(ii) An account held by the client ((~~in the~~)) on behalf of another person; or

(iii) Funds held by the client in the behalf of another person.

(b) The client shall have the opportunity to rebut the presumption of full ownership when the client can show that all or a portion of the cash fund is:

(i) Derived from funds belonging exclusively to the other holder; and

(ii) Held and/or utilized solely for the benefit of that holder.

(c) The department shall not consider any cash fund as actually owned by or available to the client if the client can verify that the funds belong to and are held for the use of another person.

(4) The department shall exclude a bank account jointly owned by an AFDC recipient and an SSI recipient (i.e., both names are on the account) if the funds in the account are counted for SSI purposes and the SSI recipient cannot rebut presumption of the availability of the funds.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2450 Resources—Exempt or disregarded income which is also exempt as a resource. The department shall exempt((~~s~~)) or disregard((~~s~~)) as income all the funds listed in this section. The department shall also consider these funds as an exempt resource((~~:~~)):

(1) The resources of a supplemental security income (SSI) recipient. The department shall not consider nonrecurring lump sum SSI retroactive payments made to an AFDC client as income or as a resource in the month paid nor in the next following month;

(2) The monthly child support incentive payment from the ((~~office of support enforcement (OSE)~~)) division of child support (DCS);

(3) AFDC benefits resulting from a court order modifying a department policy;

(4) Title IV-E, state and/or local foster care maintenance payments; and

(5) Adoption support payments if the adopted child is excluded from the assistance unit;

(6) Bona fide loans as specified in WAC 388-216-6230 and 388-216-7100. The department shall consider loans bona fide when the loan is a debt the borrower has an obligation to repay;

(7) Educational assistance, in the form of grants, loans, or work study, issued to a student from the following sources:

(a) Title IV-A of the Higher Education Amendments; or

(b) Bureau of Indian Affairs student assistance programs;

(8) Grants or loans made or insured under any programs administered by the department of education to an undergraduate student for educational purposes;

(9) Educational assistance in the form of grants, loans, or work study, issued under the Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 100-391), for attendance costs as identified by the institution. For a student attending school:

(a) At least half-time, attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses; or

(b) Less than half-time, attendance costs include tuition, fees, and costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study;

(10) Educational assistance in the form of grants, work study, scholarships, or fellowships, from sources other than those identified in subsections (7), (8), and (9) of this section for attendance costs as identified by the institution. Attendance costs include tuition, fees, costs for purchase or rental of equipment, materials, or supplies required of all students in the same course of study, books, supplies, transportation, dependent care, and miscellaneous personal expenses;

(11) Any remaining educational assistance, in the form of grants, work study, scholarships, or fellowships, not disregarded in subsections (7), (8), (9), or (10) of this section, as allowed under WAC 388-218-1540;

(12) The earned income disregards in WAC 388-218-1430 through 388-218-1480 for AFDC and WAC 388-219-1500 for GA-U to any work study earnings received and not disregarded in subsections (7), (8), (9), (10), and (11) of this section;

(13) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, section 216);

(14) The food coupon allotment under Food Stamp Act of 1977;

(15) Compensation to volunteers under the Domestic Volunteer Act of 1973 (P.L. 93-113, Titles I, II, and III);

(16) Benefits under Women, Infants and Children program (WIC);

(17) Food service program for children under the National School Lunch Act of 1966 (P.L. 92-433 and 93-150);

(18) Energy assistance payments;

(19) Indian trust funds or lands held in trust (including interest and investment income accrued while such funds are held in trust) by the Secretary of the Interior for an Indian Tribe, including but not limited to funds issued under the Maine Indian Claims Settlement Act of 1980 (P.L. 96-420);

(20) Per capita judgment funds under P.L. 97-408 to members of the:

(a) Blackfeet Tribe of the Blackfeet Indian Community, Montana;

(b) Gros Ventre Tribe of the Fort Belknap Reservation, Montana; and

(c) Assiniboine Tribe of the Fort Belknap Indian Community;

(21) Indian judgment funds or funds held in trust by the Secretary of the Interior distributed per capita under P.L. 93-134, as amended by P.L. 103-66, 94-114, 97-458, or 98-64. In addition:

(a) Real or personal property purchased directly with funds from the per capita payments, up to the amount of the funds from the per capita payment, are referred to as initial investments. These initial investments are exempt;

(b) Income derived either from the per capita payment or the initial investments shall be treated as newly acquired income;

(c) Appreciation in value of the initial investment shall be treated as a nonexempt resource at the time of eligibility review, unless the initial investment is a type of resource which is listed as exempt under WAC 388-216-2500 or 388-216-2650;

(d) The disregard does not apply to per capita payments or initial investments from per capita payments which are transferred or inherited;

(e) The department shall not consider up to two thousand dollars per year of income received by individual Indians, derived from leases or other uses of individually owned trust or restricted lands;

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

(23) Veterans' Administration educational assistance for the student's educational expenses and child care necessary for school attendance;

(24) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

(25) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall also disregard resources derived from restitution payments;

(26) A previous underpayment of assistance under WAC 388-260-1550 in the month paid nor in the next following month;

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

(a) Real or personal property purchased directly with funds from the annuity fund payment, up to the amount of the funds from the annuity fund payment, are referred to as initial investments. These initial investments are exempt;

(b) Income derived either from the annuity fund payment or the initial investments shall be treated as newly acquired income;

(c) Appreciation in value of the initial investment shall be treated as a nonexempt resource at the time of eligibility review, unless the initial investment is a type of resource which is listed as exempt under WAC 388-216-2500 or 388-216-2650;

(d) Proceeds from the transfer of the initial investments are treated as a transfer of exempt property, as specified in WAC 388-217-3350;

(28) Payments from the trust fund established by the P.L. 101-41 made to a Puyallup Tribe member;

(29) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims (P.L. 101-201). The effective date of the disregard is retroactive to January 1, 1989;

(30) Payments made under the Disaster Relief Act of 1974 (P.L. 93-288), as amended by disaster Relief and Emergency Assistance amendments of 1988 (P.L. 100-707). This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(31) Payments from the Radiation Exposure Compensation Act (P.L. 101-426) made to an injured person, surviving spouse, children, grandchildren, or grandparents; ((~~and~~))

(32) Payments made to Victims of Nazi Persecution under Public Law 103-286. The effective date of the disregard is retroactive to August 1, 1994;

(33) Payments made from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act trust fund, pursuant to P.L. 93-134. Funds paid, interest or investment income earned on such funds, and any payment authorized by the tribe or the Secretary of the Interior are not counted as a resource; and

(34) Income specifically excluded by any other federal statute from consideration as income and a resource.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2650 Resources—Exempt within a ceiling value. (1) The department shall exempt the equity value of the resources listed below up to the specified ceiling value. ((~~The department shall consider any equity value in excess of the ceiling value as a nonexempt resource.~~)) Consider any excess value as a nonexempt resource and apply to the resource limit of one thousand dollars:

(a) Term or burial insurance, up to a ceiling value of one thousand five hundred dollars per household member((~~.~~));

(b) One vehicle up to a ceiling value of one thousand five hundred dollars per household((~~.~~));

(c) When a vehicle is jointly owned by an AFDC recipient and an SSI recipient, the equity value of the vehicle is prorated between the owners:

(i) The portion of equity value owned by the SSI recipient is not counted for AFDC;

(ii) Do not count the portion of equity value owned by the AFDC client, up to the ceiling value of one thousand five hundred dollars;

(iii) Consider any portion of the equity value owned by the AFDC client in excess of the ceiling value as a nonexempt resource. Per provisions in WAC 388-216-2000 (3)(b) consider nonexempt resources up to the resource limit of one thousand dollars.

(2) The department shall phase in changes to the ceiling values at the first opportunity, when the department first:

(a) Takes a case action;

(b) Determines eligibility; or

(c) Redetermines eligibility.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-216-2800 Resources—Value. "Equity value" means fair market value minus encumbrances (legal debts).

PROPOSED

(1) The department shall determine the value of all nonexempt resources according to the resource's equity value. When a vehicle is jointly owned by an AFDC recipient and an SSI recipient, the equity value of the vehicle is prorated between the owners:

(a) The portion of equity value owned by the SSI recipient is not counted for AFDC;

(b) Do not count the portion of equity value owned by the AFDC client, up to the ceiling value of one thousand five hundred dollars, for the first vehicle. Do not apply this rule to additional vehicles;

(c) Consider any portion of the equity value owned by the AFDC client in excess of the ceiling value as a nonexempt resource. Per provisions in WAC 388-216-2000 (3)(b) consider nonexempt resources up to the resource limit of one thousand dollars.

(2) The department shall reassess the fair market value if the client provides acceptable evidence that:

(a) A good-faith effort has been made to sell the resource at the fair market value determined by the department; and

(b) The current worth of the resource is less than the resource standard.

(3) The department shall:

(a) Use the *National Automobile Dealers Association Official Used Car Guide* to determine the resource value of automobiles. For automobiles listed in this guide, the department shall presume the "average loan" value in the current edition represents the resource value.

(b) Use the *Kelley Bluebook R.V. Guide* to determine the resource value of recreational vehicles. For vehicles listed in this guide, the department shall presume the "wholesale" value in the current edition represents the resource value.

(c) Document the method used to determine the resource value in the case record for vehicles not listed in these guides.

(d) Document evidence in the case record when the values listed in these guides can be overcome by positive evidence to the contrary.

(4) The equity value in the cash discount value of a chattel mortgage or sales contract represents the value of the resource.

WSR 95-11-051
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 10, 1995, 3:33 p.m.]

The Department of Social and Health Services is withdrawing chapter 388-73 WAC, Child care agencies—Minimum licensing/certification requirements. The Office of Child Care Policy, DCFS, filed chapter 388-73 WAC as a proposal under WSR 94-24-073 on December 6, 1994; continuance under WSR 95-05-024 on February 8, 1995; and supplemental notice under WSR 95-07-024 on March 7, 1995.

Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

WSR 95-11-067
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 12, 1995, 4:44 p.m.]

Original Notice.

Title of Rule: WAC 388-215-1000 Summary of eligibility conditions and 388-215-1510 Cooperation with quality control.

Purpose: Add cooperation with quality control (QC) in the review process as a condition of eligibility for the receipt of aid to [families with] dependent children (AFDC) benefits.

Statutory Authority for Adoption: RCW 74.04.015, 74.04.055, and 74.04.057.

Statute Being Implemented: RCW 74.04.015, 74.04.055, and 74.04.057.

Summary: Provides the department with the legal authority to require that a client cooperate in the QC process so that eligibility or ineligibility for assistance can be established.

Reasons Supporting Proposal: Add cooperation with the QC review process as a condition of eligibility for receiving AFDC benefits.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Betty Brinkman, Division of Income Assistance, Office of Assistance Conditions, 438-8309.

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

Rule is necessary because of federal law, 45 CFR 233.10 (a)(1)(ii)(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. These rules impact the receipt of public assistance benefits for very few clients and have no direct impact on businesses.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by June 13, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting 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 June 20, 1995.

Date of Intended Adoption: June 28, 1995.

May 12, 1995
Rosemary Carr
for Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-215-1000 Summary of eligibility conditions. (1) The department shall grant AFDC on behalf of a child who:

(a) Meets the age requirements under WAC 388-215-1025; and

(b) Is living in the home of a relative of specified degree including a parent or another relative as defined under WAC 388-215-1050 through 388-215-1080. For temporary absences, see WAC 388-215-1100 through 388-215-1110; and

(c) Is a citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States (see WAC 388-215-1200); and

(d) Is a resident of the state of Washington, or resides with a parent or other relative who is a resident of the state of Washington (see WAC 388-215-1225); and

(e) Is in financial need (see chapters 388-216 through 388-219 WAC); and

(f) Is deprived of parental support or care because of the death (see WAC 388-215-1300), continued absence (see WAC 388-215-1320 through 388-215-1335), incapacity (see WAC 388-215-1340 through 388-215-1360), or unemployment (see WAC 388-215-1370 through 388-215-1385) of a parent. A parent is a person meeting the criteria in WAC 388-215-1060.

(2) Each client of AFDC shall:

(a) Assign to the ((~~office~~)) division of child support ((~~enforcement~~)) any rights to support in his or her own behalf or in behalf of the other assistance unit members as required under WAC 388-215-1400; and ((~~shall~~))

(b) Cooperate with the ((~~office~~)) division of child support ((~~enforcement~~)) as required under WAC 388-215-1400 through 388-215-1490.

(3) The department shall require each applicant for, or recipient of assistance to furnish a Social Security number as specified in WAC 388-215-1500.

(4) The department shall require adult AFDC recipients or payees to cooperate in a review of eligibility as part of a quality control review as specified in WAC 388-215-1510.

(5) All AFDC applicants and recipients shall be subject to job opportunities and basic skills program (JOBS) participation requirements as specified under WAC 388-215-1520.

(((~~5~~))) (6) All AFDC clients are subject to the rules regarding participation in strikes as ((~~provided~~)) specified under WAC 388-215-1540.

(((~~6~~))) (7) Certain AFDC recipients shall return a completed monthly report to the department as required under WAC 388-215-1560.

(((~~7~~))) (8) The department shall establish assistance units of children and caretaker relatives eligible for AFDC as specified under WAC 388-215-1600 through 388-215-1620.

(((~~8~~))) (9) The department shall determine eligibility for a minor child applying for ((~~herself or himself~~)) oneself as required under WAC 388-215-1650.

NEW SECTION

WAC 388-215-1510 Cooperation with quality control. (1) As a condition of eligibility, the department shall require adult AFDC recipients or payees to cooperate in the review of eligibility as part of a quality control review.

(2) The department shall determine ineligibility for the assistance unit when a recipient or payee fails to cooperate with the quality control review process until the earlier of the following:

(a) Quality control requirements are met; or

(b) One hundred twenty days from the end of the annual quality control review period.

(3) The department shall require an applicant to provide verification of all eligibility requirements if the applicant:

(a) Was terminated from assistance for refusal to cooperate in a quality control review; and

(b) Reapplies after one hundred twenty days from the end of the annual quality control review period.

PROPOSED

WSR 95-11-070
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 15, 1995, 2:03 p.m.]

Please withdraw the CR-102 filed by this office on April 19, 1995, under WSR 95-09-090. The purpose of this CR-102 was to prescribe fees for the inspection and testing of weighing or measuring instruments or devices.

If you have any questions concerning this withdrawal, please contact Bob Arrington at 902-1856.

Julie C. Sandberg
Assistant Director

WSR 95-11-071
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 15, 1995, 2:04 p.m.]

Please withdraw the CR-102 filed by this office on April 19, 1995, under WSR 95-09-089. The purpose of this CR-102 was to prescribe fees for weighing and measuring standards services performed by the State Metrology Laboratory.

If you have any questions concerning this withdrawal, please contact Bob Arrington at 902-1856.

Julie C. Sandberg
Assistant Director

PROPOSED

WSR 95-11-075
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF REVENUE
(By the Code Reviser's Office)
[Filed May 16, 1995, 8:05 a.m.]

WAC 458-40-680, proposed by the Department of Revenue in WSR 94-22-107, appearing in issue 94-22 of the State Register, which was distributed on November 16, 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 95-11-076
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF REVENUE
(By the Code Reviser's Office)
[Filed May 10, 1995, 8:06 a.m.]

WAC 458-40-670, proposed by the Department of Revenue in WSR 94-22-112, appearing in issue 94-22 of the State Register, which was distributed on November 16, 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 95-11-078
PROPOSED RULES
DEPARTMENT OF LICENSING
[Filed May 16, 1995, 3:36 p.m.]

Original Notice.

Title of Rule: Chapter 308-96A WAC, Vehicle licensing; and chapter 308-88 WAC, Rental car taxation and licensing.

Purpose: Amend criteria for registration of rental car businesses and rental car registrations.

Other Identifying Information: Transfer criteria for registration of rental cars from chapter 308-88 WAC to chapter 308-96A WAC.

Statutory Authority for Adoption: RCW 46.01.110 and 46.87.023.

Statute Being Implemented: RCW 46.87.023.

Summary: Registration of rental car businesses are regulated by RCW 46.87.023 and chapter 308-88 WAC. Registration of rental car registrations are regulated by chapter 46.16 RCW and chapter 308-96A WAC.

Reasons Supporting Proposal: Amend regulations as required to implement section 2, chapter 227, Laws of 1994 which transferred the registration of rental cars from chapter 46.87 RCW to chapter 46.16 RCW.

Name of Agency Personnel Responsible for Drafting: Jack Lince, 1125 Washington Street S.E., Olympia, (360) 902-3773; Implementation: Eric Anderson, 1125 Washington Street S.E., Olympia, (360) 902-3811; and Enforcement: Art Farley, 2000 4th Avenue West, Olympia, (360) 753-3993.

Name of Proponent: Department of Licensing, Vehicle Services Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 308-96A-180, establish criteria for registration of rental cars.

Proposal Changes the Following Existing Rules: WAC 308-88-010, administrative amendments to remove unnecessary language; WAC 308-88-030, administrative amendments to clarify meaning of qualification requirements and documentation; WAC 308-88-040, repeal requirement for business to retain registration records; and the following rules are each repealed: WAC 308-88-060 Registration denial appeal procedure, 308-88-070 Methods for registration of rental cars, 308-88-080 Registration of rental cars, 308-88-090 rental car reciprocity, 308-88-100 Use of rental cars restricted, 308-88-110 Rental car temporary permits, 308-88-120 Rental car license plates, 308-88-130 Use of rental car plates, 308-88-140 Removal/reassignment of rental car plates, 308-88-150 Return of rental car plates, and 308-88-160 Vehicles removed from rental car operations.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The proposed rules will impose only minor costs on less than twenty percent of the rental car industry.

Hearing Location: Highways-Licenses Building, Room 307, 1125 Washington Street S.E., Olympia, WA, on June 27, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact Jack Lince by June 22, 1995, TDD (360) 664-8885.

Submit Written Comments to: Art Farley, LSM, Prorate/Fuel Tax Service, P.O. Box 48083, Olympia, WA 98507, FAX (360) 664-8468, by June 23, 1995.

Date of Intended Adoption: June 30, 1995.

May 2, 1995
Nancy Kelly, Administrator
Title/Registration Service

AMENDATORY SECTION (Amending WSR 93-01-066, filed 12/11/92, effective 1/11/93)

WAC 308-88-010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) ((~~"Department" means department of licensing.~~

~~(2) "Rental car" means a passenger car, as defined in RCW 46.04.382, which states "passenger car" means every motor vehicles except motorcycles and motor-driven cycles, designed to carry passengers and used for the transportation of persons.~~

~~The rental car is used solely by a rental car business for daily or monthly rental to others, without a driver provided by the rental car business.~~

~~"Rental car" does not include:~~

~~(a) Vehicles rented or loaned to customers by automotive repair businesses while the customer's vehicle is under repair;~~

~~(b) Vehicles licensed and operated as taxicabs;~~

~~(c) Vehicles that are leased.~~

~~(3)~~)) "Retail car rental" means renting a rental car to a consumer.

(((~~4~~))) (2) "Rental car business" means any person, firm, corporation, or other business in this state engaged in the retail car rental ((~~ear~~)) business.

A rental car business must be the legal and/or registered owner of at least five Washington titled rental cars. These rental cars must be offered and available for rent at all times. A rental car business must generate, at a minimum, twenty-five thousand dollars in annual gross revenue((~~s~~)) from retail car rental((~~s~~)).

~~(((5) "Certificate of title" means a certificate of ownership as defined in chapter RCW 46.12 RCW.~~

~~(6) "Registration credential" is a certificate and/or other authorizing credential or validation tab or sticker which allows the vehicles to operate in this state.~~

~~(7)~~)) (3) "International Registration Plan" (IRP) means the multistate proportional agreement which prescribes procedures for the proportional registration and reciprocity of interstate commercial vehicles as described in chapter 46.87 RCW.

(((~~8~~))) (4) "Place of business" means a location within the state of Washington or other jurisdiction. Such place of business shall be in a building easily accessible at all reasonable times. The books, records, and files of the business shall be kept and maintained at that place. The business shall display an exterior sign with the business name and nature of the business affixed to the land or building.

(((~~9~~))) (5) "Franchise operation" means a rental car business operating pursuant to a franchise agreement or other similar licensing agreement with a ((~~franchisor~~)) franchiser or related business.

AMENDATORY SECTION (Amending WSR 93-01-066, filed 12/11/92, effective 1/11/93)

WAC 308-88-030 Application for registration. Every application for a rental car business registration shall contain the following information:

(1) The business name and address of the principal place of business of the firm and the business names and addresses of every additional place of business ((~~in Washington~~)) where the applicant conducts rental car business in this state. ((~~If requested by the department, the applicant shall provide evidence of leasehold or ownership.~~))

(2) The business name and address on the registration application and all required supporting documents must be the same. The sign at the business location must identify the business name or doing business as (dba), if any, and that name shall appear on all documents as the applicant's name. The business telephone listing must also reflect the business name or the ((~~doing business as~~)) dba name.

The department may require ((~~proof concerning the applicant's identity or the identity~~)) applicant identification including identification of any partner, or ((~~of the~~)) officer((~~s~~)) of a corporation making the application. ((~~This~~)) Corporations shall ((~~include proof~~)) provide evidence that the corporation is ((~~licensed~~)) authorized to do business in this state.

(3) The names and titles of the principal owners ((~~or~~)), including principal officers of a corporation.

(4) Whether the applicant is licensed as a vehicle dealer ((~~in the state of Washington~~)) pursuant to chapter 46.70 RCW.

(5) Whether the applicant is ((~~involved in mechanical or auto body repairs of vehicles for customers~~)) in the automobile repair business and if the business rents vehicles to customers ((~~when~~)) while their vehicle is being repaired. The department may require additional information from the business to determine whether this type of business operation may register as a rental car business.

(6) The total number of ((~~vehicles in the~~)) rental cars in the business fleet and the ((~~estimated~~)) gross revenue from the retail car rental ((~~of the rental cars~~)) for ((~~a~~)) the past twelve-month period ((~~during which the rental car business will register rental cars in this state~~)).

(7) ((~~The proof of state approved~~)) Applicant's liability insurance (self-insured) ((~~or the name of the businesses liability~~)) coverage pursuant to RCW 46.30.020, including the department of licensing issued self-insurance number or insurance company name, ((~~its address, phone, the~~)) policy number, and agent's name and address. The department may require additional information to verify the businesses insurance.

(8) Whether the applicant elects to apply and/or renew registration and participation in the International Registration Plan (IRP). If the rental car business is eligible to register its rental cars pursuant to the provisions of the IRP, the business shall properly register with the department in accordance with the IRP. IRP registered rental car businesses shall maintain retail car rental locations in two or more IRP jurisdictions.

AMENDATORY SECTION (Amending WSR 93-01-066, filed 12/11/92, effective 1/11/93)

WAC 308-88-040 Issuance of rental car business registration. The application in proper form and having been accepted and approved, the department will issue to the applicant a registration credential and account number which will exempt the payment of the motor vehicle excise tax on properly registered rental cars. The registration credential must be retained in the business's records ((~~for a period of five years~~)). ((~~This~~)) The annual registration ((~~will be~~)) is valid until canceled or revoked by the department.

The registration issued by the department is not assignable, and ((~~will be~~)) is valid only for the rental car business in whose name it ((~~was~~)) is issued.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 308-88-060	Registration denial appeal procedure.
WAC 308-88-070	Methods for registration of rental cars.
WAC 308-88-080	Registration of rental cars.
WAC 308-88-090	Rental car reciprocity.
WAC 308-88-100	Use of rental cars restricted.
WAC 308-88-110	Rental car temporary permits.
WAC 308-88-120	Rental car license plates.
WAC 308-88-130	Use of rental car plates.

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WAC 308-88-140	Removal/reassignment of rental car plates.
WAC 308-88-150	Return of rental car plates.
WAC 308-88-160	Vehicles removed from rental car operations.

NEW SECTION

WAC 308-96A-180 Registration of rental cars. (1) Rental car businesses, registered pursuant to RCW 46.87.023 and chapter 308-88 WAC, shall register their rental cars prior to the vehicles being operated upon the roadways of this state. Registrations must be maintained for the period in which the rental car is operated as part of the rental car business fleet.

(2) Rental cars properly registered in another jurisdiction may be operated in this state without being titled and registered in this state when:

(a) Rented by a customer at a location outside of the state of Washington;

(b) The vehicle was dropped off at a Washington rental car business by its previous renter and is being rented for a one-way trip out of Washington; or

(c) The vehicle is part of a properly registered International Registration Plan (IRP) rental car business fleet.

(3) If the rental car business is registered pursuant to the provisions of the IRP, the rental car business will allocate rental car registrations according to the provisions of section 1116 of the IRP, as now or hereafter amended. Franchised businesses, receiving vehicles from their franchiser who is a registered IRP rental car business, may engage in retail car rentals for one-way trips into the state when receiving the vehicle and out of the state when returning it to the franchiser.

(4) Rental car usage is restricted to operations by rental customers, except when the rental car is being moved by the business to another business site, to or from maintenance or repair facilities, or for testing purposes.

(5) Vehicles that cease to be used for rental car purposes shall be reregistered for the appropriate usage and pay the proper motor vehicle excise tax pursuant to RCW 82.44.023 prior to further operation on the public roadways of this state.

WSR 95-11-079
PROPOSED RULES
DEPARTMENT OF FINANCIAL INSTITUTIONS
(Securities Division)
[Filed May 16, 1995, 4:10 p.m.]

Original Notice.

Title of Rule: Broker-dealers and salespersons; investment advisers and investment adviser representatives; mortgage broker-dealers and salespersons; definition of "department."

Purpose: To reorganize the rules relating to broker-dealer and salesperson registration to make them easier to use. To update the broker-dealer and salesperson registration provisions to reflect current industry procedures and examination requirements. To simplify examination requirements for agents of issuers who receive no commission. To revise examination requirements for investment advisers and investment adviser representatives. To further define the supervisory responsibilities of broker-dealers.

Statutory Authority for Adoption: RCW 21.20.070 and 21.20.450.

Statute Being Implemented: RCW 21.20.060, 21.20.070, 21.20.100, and 21.20.110.

Summary: Reorganizes broker-dealer and salesperson rules into functional categories. Updates the registration and examination provisions to reflect current securities industry practice. Simplifies examination requirements for certain agents of issuers. Defines supervisory responsibilities of broker-dealers. Changes examination requirements for investment advisers and investment adviser representatives.

Reasons Supporting Proposal: The principal objectives of the proposal are to make the rules easier to understand, to better match the examination requirements to the registration applied for, to make the rules reflect current industry practices, and to define more fully the supervisory responsibilities of broker-dealers.

Name of Agency Personnel Responsible for Drafting: Suzanne Sarason, 210 11th Street S.W., 3d Floor West, (360) 902-8767; Implementation: John L. Bley, 210 11th Street S.W., 3d Floor West, (360) 902-8707; and Enforcement: Deborah Bortner, 210 11th Street S.W., 3d Floor West, (360) 902-8760.

Name of Proponent: Department of Financial Institutions, Securities Division, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Reorganization will make the broker-dealer and salesperson rules easier to use. Updating of registration and examination requirements for broker-dealers and salespersons makes Washington rules consistent with national standards and current securities industry practices. The changes in investment adviser and investment adviser representative examination requirements eliminate qualifying examination alternatives that do not provide sufficiently broad subject matter coverage. The provisions relating to supervisory practices advise broker-dealers more fully of their supervisory responsibilities.

Proposal Changes the Following Existing Rules: The proposal repeals the existing broker-dealer and salesperson rules (chapter 460-20A WAC) and substitutes four new chapters: Chapter 460-20B WAC, Broker-dealer registration, chapter 460-21B WAC, Broker-dealer regulation, chapter 460-22B WAC, Salespersons of broker-dealers, and chapter 460-23B WAC, Registration of agents of issuers. Rules on registration of mortgage broker-dealers and salespersons are moved to chapter 460-33A WAC, the chapter dealing mortgage paper securities. The proposal simplifies the registration requirements for some agents of issuers. The proposal updates the registration and examination requirements for broker-dealers and salespersons to reflect current industry practice, especially electronic registration filing, national qualification standards, and electronic record keeping. The proposal eliminates limited qualifying examinations for investment advisers and investment adviser representatives in favor of general qualifying examinations.

The proposal adds provisions defining supervisory responsibilities of broker-dealers.

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: Suzanne Sarason, Securities Division, Department of Financial Institutions, P.O. Box 9033, Olympia, WA 98507-9033, phone (360) 902-8767, or FAX (360) 586-5068.

Hearing Location: Washington Interactive Television, 710 Sleater-Kinney Road, Suite Q, Lacey, WA 98504-2451, on June 29, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Darlene Bamer by June 22, 1995, TDD (360) 664-8126, or (360) 902-8760.

Submit Written Comments to: P.O. Box 9033, Olympia, WA 98507-9033, FAX (360) 586-5068, by June 27, 1995.

Date of Intended Adoption: July 7, 1995.

May 16, 1995
John L. Bley
Director

AMENDATORY SECTION (Amending Order SDO-37-80, filed 3/19/80)

WAC 460-10A-015 Division. Means the securities division of the department of ((~~licensing~~)) financial institutions.

Chapter 460-20B WAC
BROKER-DEALER REGISTRATION

NEW SECTION

WAC 460-20B-010 Application. The rules contained in this chapter apply to broker-dealers (other than mortgage broker-dealers under chapter 460-33A WAC).

NEW SECTION

WAC 460-20B-020 Definitions. For the purposes of this chapter and chapters 460-21B, 460-22B, and 460-23B WAC:

(1) "Central Registration Depository" ("CRD") shall mean the national registration system operated by the National Association of Securities Dealers, Inc. pursuant to a contract with the North American Securities Administrators Association.

(2) "Balance sheet" shall mean a balance sheet prepared in accordance with generally accepted accounting principles.

(3) "Branch office," for the purpose of this chapter, shall mean any office, residence or other place or location in this state where the business of a registered broker-dealer is conducted and which is owned or controlled by, or operated directly or indirectly for the benefit of, the registered broker-dealer, and where the business of a broker-dealer is conducted by a principal, salesperson, or salespersons for such registered broker-dealer, except that the following are not considered branch offices:

(a) Any location identified in a telephone directory line listing or on a business card or letterhead, which listing, card, or letterhead also sets forth the address and telephone number of the office from which persons conducting business from the location are directly supervised;

(b) Any location referred to, in an advertisement by a broker-dealer, by its local telephone number or local post office box provided that such reference may not include the street address of the location and that such reference also sets forth the address and telephone number of the office from which persons conducting business at the location are directly supervised;

(c) Any location identified by address in a broker-dealer's sales literature, provided that the sales literature also sets forth the address and telephone number of the office from which persons conducting business at the location are directly supervised; or

(d) The principal office of the broker-dealer.

(4) "OTC non-NASDAQ equity securities" shall mean equity securities not traded on a national securities exchange or on NASDAQ. NASDAQ Small-Cap equity securities and equity securities quoted on the NASD's OTC Bulletin Board are OTC non-NASDAQ equity securities.

NEW SECTION

WAC 460-20B-030 Registration procedure. (1) Broker-dealers that are members of the National Association of Securities Dealers must:

(a) Submit Form BD designating Washington as a state in which the broker-dealer requests registration to the Central Registration Depository together with the required fee; and

(b) Submit to the securities division in a form acceptable to the administrator such additional information as the administrator may require.

(2) Broker-dealers that are not members of the National Association of Securities Dealers must submit the following to the securities division:

(a) A check for the required fee made out to "state treasurer";

(b) A complete Form BD;

(c) Balance sheet as of a date not more than ninety days before the date of filing, and computation of net capital and aggregate indebtedness ratio of the same date as the balance sheet;

(d) A copy of any subordination agreement;

(e) Proof of passage of qualifying examinations by the designated principals;

(f) Such other information as the administrator may require.

NEW SECTION

WAC 460-20B-040 Examination requirements. (1) In order to be licensed in this state as a broker-dealer, the individual applicant, an officer if the applicant is a corporation, a manager if the applicant is a limited liability company, or a general partner if the applicant is a partnership, shall pass the following examinations:

(a) The uniform securities agent state law examination (series 63); or the uniform combined state law examination (series 66); and

(b) The appropriate qualifying examination or examinations administered by such national securities association for the activities in which the broker-dealer is to engage.

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(2) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the broker-dealer must notify the securities administrator of a substitute officer or general partner who has passed the same category of examination specified in subsection (1) of this section within two months of the date of substitution in order to maintain the broker-dealer's license.

NEW SECTION

WAC 460-20B-050 Expiration of broker-dealer license, renewal procedure, and delinquency fees. The broker-dealer licenses issued pursuant to this chapter shall be effective until December 31 at which time they shall be renewed or be delinquent. For any renewal application postmarked after the expiration date but received by the administrator on or before March 1, the licensee shall pay a delinquency fee of one hundred dollars in addition to the renewal fee. No renewal applications will be accepted thereafter.

NEW SECTION

WAC 460-20B-060 Notice of changes by broker-dealers. (1) Each licensed broker-dealer shall, upon any change in the information contained in its application for a certificate (other than financial information contained therein), promptly file an amendment to such application setting forth the changed information (and in any event within thirty days after the change occurs).

(2) Each licensed broker-dealer shall notify the administrator of the employment of any new agent in Washington, giving the full name and Social Security number of the individual involved, the date of employment, and the location of the office in which he or she will be employed by submitting a completed NASD Form U-4 to the administrator or the administrator's designee within twenty-one days after the event occurs.

(3) Each licensed broker-dealer shall notify the administrator of the termination of employment of any agent in Washington by submitting a completed NASD Form U-5 to the administrator or the administrator's designee, within thirty days after the event occurs.

(4) With respect to any broker-dealer registered under the Securities Exchange Act of 1934, it shall be sufficient compliance with subsection (1) of this section if a copy of an amendment to Form BD of the Securities and Exchange Commission containing the required information, or transmitted for filing to, the administrator not later than the date on which such amendment is required to be filed with the Securities and Exchange Commission.

Chapter 460-21B WAC
BROKER-DEALER PRACTICES

NEW SECTION

WAC 460-21B-008 Fraudulent practices of broker-dealers. A broker-dealer who engages in one or more of the following practices shall be deemed to have engaged in an "act, practice, or course of business which operates or would operate as a fraud" as used in RCW 21.20.010. This section is not intended to be all inclusive, and thus, acts or practices not enumerated herein may also be deemed fraudulent.

(1) Entering into a transaction with a customer in any security at an unreasonable price or at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit.

(2) Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead or using any advertising or sales presentation in a deceptive or misleading manner.

(3) In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer or agent is in possession of material, nonpublic information which would impact on the value of the security.

(4) In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors with similar investment objectives for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor.

(5) Failing to make a bona fide public offering of all the securities allotted to a broker-dealer for distribution by, among other things:

(a) Transferring securities to a customer, another broker-dealer, or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees; or

(b) Parking or withholding securities.

(6) Although nothing in this section precludes application of the general antifraud provisions against anyone for practices similar in nature to the practices discussed below, the following subsections specifically apply only in connection with the solicitation of a purchase or sale of OTC non-NASDAQ equity securities:

(a) Failing to comply with rules adopted by the Securities and Exchange Commission under authority granted by the Penny Stock Act of 1990, i.e., United States Securities and Exchange Commission Rules 15g-1 through 15g-9 and 15g-100 (17 C.F.R. § 240.15g-1 through § 240.15g-6 adopted in Release 34-30608 issued 4/20/92; 17 C.F.R. § 240.15g-8 adopted in Release 34-30577 issued 4/13/92; 17 C.F.R. § 240.15g-9 originally adopted as § 240.15c2-6 in Release 34-27160 issued 8/22/89 and amended and redesignated as § 240.15g-9 in Release 34-32576 issued 8/11/93; 17 C.F.R. § 240.15g-100 adopted in Release 34-30608 issued 4/20/92 and amended in Release 34-32576 issued 7/2/93) which are hereby incorporated by reference.

(b) Conducting sales contests in a particular security.

(c) After a solicited purchase by a customer, failing or refusing, in connection with a principal transaction, to promptly execute sell orders.

(d) Soliciting a secondary market transaction when there has not been a bona fide distribution in the primary market.

(e) Engaging in a pattern of compensating an agent in different amounts for effecting sales and purchases in the same security.

(7) Effecting any transaction in, or inducing the purchase or sale of any security by means of any manipulative, deceptive, or other fraudulent device or contrivance including

but not limited to the use of boiler room tactics or use of fictitious or nominee accounts.

(8) Failing to comply with any prospectus delivery requirement promulgated under federal law.

NEW SECTION

WAC 460-21B-010 Churning. The phrase "employ any device, scheme or artifice," as used in RCW 21.20.-010(1), is hereby defined to include any act of any broker-dealer or agent designed to effect with or for any customer's account with respect to which such broker-dealer or his/her agent or employee is vested with any discretionary power, or with respect to which he/she is able by reason of the customer's trust and confidence to influence the volume and frequency of the trades, any transactions of purchase or sale which are excessive in size or frequency in view of the financial resources and character of such account.

NEW SECTION

WAC 460-21B-020 Transmission or maintenance of payments received in connection with underwritings. It shall constitute a "device, scheme, or artifice to defraud" as used in RCW 21.20.010(1), for any broker-dealer participating in any distribution of securities, other than a firm commitment underwriting, to accept any part of the sale price of any security being distributed unless:

(1) The money or other consideration received is promptly transmitted to the persons entitled thereto; or

(2) If the distribution is being made on an "all-or-none" basis, or on any other basis which contemplates that payment is not to be made to the person on whose behalf the distribution is being made until some further event or contingency occurs:

(a) The money or other consideration received is promptly deposited in a separate bank account, as agent or trustee for the persons who have the beneficial interests therein, until the appropriate event or contingency has occurred, and then the funds are promptly transmitted or returned to the persons entitled thereto; or

(b) All such funds are promptly transmitted to a bank which has agreed in writing to hold all such funds in escrow for the persons who have the beneficial interests therein and to transmit or return such funds directly to the persons entitled thereto when the appropriate event or contingency has occurred.

NEW SECTION

WAC 460-21B-030 Minimum net capital requirement for broker-dealers. Every licensed broker-dealer shall meet the minimum net capital requirements required by the United States Securities and Exchange Commission. Copies of these requirements may be obtained from the securities division.

NEW SECTION

WAC 460-21B-040 Net capital defined. The definition of "net capital" shall be the same as the definition promulgated by the United States Securities and Exchange Commission. Copies of this definition may be obtained from the securities division.

NEW SECTION

WAC 460-21B-050 Books and records of broker-dealers. (1) Each registered broker-dealer shall make, maintain, and preserve books and records in compliance with United States Securities and Exchange Commission Rules 17a-3 (17 C.F.R. § 240.17a-3 (1991)), 17a-4 (17 C.F.R. § 240.17a-4(1991)), 15c2-6 (17 C.F.R. § 240.15c2-6 (1991)) and 15c2-11 (17 C.F.R. § 240.15c2-11 (1991) as amended in Release No. 34-29094, 56 Fed. Reg. 19148 (1991)) which are hereby incorporated by reference. To the extent that the United States Securities and Exchange Commission promulgates changes to the above-referenced rules, dealers in compliance with such rules as amended shall not be subject to enforcement action by the commission for violation of this rule to the extent that the violation results solely from the dealer's compliance with the amended rule.

(2) Each broker-dealer shall keep and maintain at each branch office or if the broker-dealer maintains no branch office in this state, at any office in this state where the broker-dealer conducts business, the following items relating to the operations of that branch office, which, together with any other books and records made or kept at the branch office, are open to inspection by the administrator or the administrator's designee pursuant to RCW 21.20.100:

(a) A complaint file containing every written customer complaint and a record of the action taken by the broker-dealer with respect to that complaint;

(b) A litigation file documenting each criminal or civil action filed in a state or federal court against the broker-dealer office or against any of its personnel with respect to a securities or investment advisory transaction and the disposition of any such litigation;

(c) A correspondence file containing all correspondence or copies thereof disseminated to or received from the public in connection with the business of the office;

(d) Copies of each confirmation of purchase or sale sent to each customer and each order ticket completed at the office;

(e) Copies of each periodic statement sent to a customer;

(f) Commission runs showing the amount of commissions earned by each salesperson of the broker-dealer;

(g) Copies or originals of new account records indicating the name and address of each customer or client, whether the customer or client is legally of age, the signature of the salesperson introducing the account, and the signature of the manager accepting the account for the broker-dealer. If a broker-dealer customer is associated with or employed by another broker-dealer, this fact must be recorded. In discretionary broker-dealer accounts, the broker-dealer shall also record:

(i) The age or approximate age and occupation of the customer;

(ii) The signature of the person authorizing the use of discretion;

(iii) The signature of each person authorized to exercise discretion in such account;

(h) Copies of each margin agreement;

(i) Copies of each written option agreement; and

(j) Blotter (or other records of original entry) containing an itemized daily record of all purchases and sales of

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securities at the office, all receipts and deliveries of securities (including certificate numbers) at the office, and all other debits and credits relating to the operation of the office. Such records shall show the amount for which each such transaction was effected, the name and amount of securities, the unit and aggregate purchase or sale price (if any), the trade date, and the name or other designation of the person from whom purchased or received or to whom sold or delivered.

(3) The administrator or the administrator's designee may copy records made, kept, or maintained pursuant to subsections (1) and (2) of this section or require a broker-dealer registered in this state to copy those records and provide the copies to the administrator in a manner reasonable under the circumstances.

(4) The records required to be kept and maintained by subsection (2) of this section may be kept or maintained on computer, microform, or other electronic data storage system if the records can be immediately produced in document form.

(5) The administrator may, by order, upon written request and for good cause shown, waive any of the requirements of this rule.

NEW SECTION

WAC 460-21B-060 Dishonest or unethical business practices—Broker-dealers. The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to broker-dealers is hereby defined to include any of the following:

(1) Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers;

(2) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(3) Recommending to a customer to purchase, sell or exchange any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(4) Executing a transaction on behalf of a customer without authorization to do so;

(5) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(6) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

(7) Failing to segregate customers' free securities or securities held in safekeeping;

(8) Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent promptly after the initial transaction, except as permitted by rules of the securities and exchange commission;

(9) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(10) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;

(11) Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business;

(12) Offering to buy from or sell to any person any security at a stated price unless such broker-dealer is prepared to purchase or sell, as the case may be, at such price and under such conditions as are stated at the time of such offer to buy or sell;

(13) Representing that a security is being offered to a customer "at the market" or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created or controlled by such broker-dealer, or by any person for whom he/she is acting or with whom he/she is associated in such distribution, or any person controlled by, controlling or under common control with such broker-dealer;

(14) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security; provided, however, nothing in this subsection shall prohibit a broker-dealer from entering bona fide agency cross transactions for its customer;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(15) Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(16) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer

believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security;

(17) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions in any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

(18) Failing to disclose that the broker-dealer is controlled by, controlling, affiliated with or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction;

(19) Failing to make bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member or from a member participating in the distribution as an underwriter or selling group member;

(20) Failure or refusal to furnish a customer, upon reasonable request, information to which he is entitled, or to respond to a formal written request or complaint;

(21) In connection with the solicitation of a sale or purchase of an OTC non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under Section 13 of the Securities Exchange Act, when requested to do so by a customer;

(22) Marking any order ticket or confirmation as unsolicited when in fact the transaction is solicited;

(23) For any month in which activity has occurred in a customer's account, but in no event less than every three months, failing to provide each customer with a statement of account which with respect to all OTC non-NASDAQ equity securities in the account, contains a value for each such security based on the closing market bid on a date certain: *Provided,* That this subsection shall apply only if the firm has been a market maker in such security at any time during the month in which the monthly or quarterly statement is issued;

(24) Failing to comply with any applicable provision of the Rules of Fair Practice of the National Association of Securities Dealers or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission; or

(25) Any acts or practices enumerated in WAC 460-21B-010.

The conduct set forth above is not inclusive. Engaging in other conduct such as forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration.

NEW SECTION

WAC 460-21B-070 Supervision of securities salespersons. (1) In order to supervise its salespersons reasonably, a broker-dealer must designate a qualified person as supervisor for each salesperson. For the purpose of this section, that person shall be referred to as the "designated supervisor" of the salesperson or salespersons he or she supervises. To be qualified, a designated supervisor must demonstrate competence by passing the examinations required by WAC 460-20B-040 to qualify as a broker-dealer.

(2) The administrator finds that a designated supervisor cannot reasonably supervise salespersons who conduct business at locations far from the principal place of business of the designated supervisor. A designated supervisor of salespersons (other than salespersons who are themselves designated supervisors) in this state must maintain his or her principal place of business in this state or in a contiguous state, and that office may not, without the written permission of the administrator, be so distant from the principal place of business of any person for whose supervision the designated supervisor is responsible as to make it impractical for the designated supervisor to visit the premises at which the salesperson supervised works on at least a monthly basis.

NEW SECTION

WAC 460-21B-080 Written procedures. (1) In order to supervise its salespersons reasonably, a broker-dealer must establish, maintain and enforce written procedures to supervise the business in which it engages and to supervise the activities of its salespersons and its other employees. The written procedures shall include, but not be limited to, procedures concerning:

(a) Review and approval of new accounts;

(b) Periodic examination of customer accounts to detect and prevent irregularities or abuses;

(c) Review of and response to customer complaints;

(d) Review and endorsement of customer orders;

(e) Review and approval of delegation of discretionary authority by a customer to a salesperson;

(f) Review and approval of correspondence from salespersons;

(g) Review of incoming correspondence;

(h) Review and approval of advertising and sales literature to be used by salespersons;

(i) Order execution;

(j) Cashiering and operations functions including the handling of cash and securities;

(k) Market making (if the broker-dealer is a market maker); and

(l) Underwriting of public offerings and private placements (to the extent that the broker-dealer engages in those activities).

(2) A copy of the written procedures described in subsection (1) of this section shall be kept and maintained at every location in which supervisory activities are conducted on behalf of the broker-dealer.

PROPOSED

Chapter 460-22B WAC
SALESPERSONS OF BROKER-DEALERS

NEW SECTION

WAC 460-22B-010 Application. The rules contained in this chapter apply to securities salespersons for broker-dealers other than mortgage paper broker-dealers.

NEW SECTION

WAC 460-22B-020 Cross-reference to other sections relating to securities salespersons. Securities salespersons of issuers are covered in chapter 460-23B WAC. Salespersons of mortgage paper broker-dealers are covered in chapter 460-33A WAC.

NEW SECTION

WAC 460-22B-030 Registration procedure. (1) Applications for registration of salespersons of broker-dealers that are members of a national securities association or national securities exchange must be submitted, together with the required fee, through the Central Registration Depository (CRD).

(2) Applications for registration of salespersons of broker-dealers not members of a national securities association or national securities exchange must be submitted to the securities division on Form U-4 together with the required fee and proof of passage of required examinations.

NEW SECTION

WAC 460-22B-040 Salesperson registration and examination. (1) Every applicant for registration as a securities salesperson of a broker-dealer shall pass the examinations specified below.

(a) For applicants seeking registration as salespersons of broker-dealers that are members of a national securities association or national securities exchange:

(i) The uniform securities agent state law examination (series 63); or the uniform combined state law examination (series 66); and

(ii) The appropriate qualifying examination administered by such national securities association.

(b) For all other applicants seeking registration as salespersons of broker-dealers:

(i) The uniform securities agent state law examination (series 63); or the uniform combined state law examination (series 66); and

(ii) The appropriate qualifying examination administered by the National Association of Securities Dealers for the activities in which the salesperson is to engage.

(2) Any individual out of the business of effecting transactions in securities for less than two years and who has previously passed the required examinations in subsection (1)(a) or (b) of this section or the Washington state securities examination shall not be required to retake the examination(s) to be eligible to be relicensed upon application.

NEW SECTION

WAC 460-22B-050 Expiration of salesperson license, renewal procedure, and delinquency fees. (1) A license issued pursuant to this section shall be effective until December 31 of the year of issuance at which time it shall be renewed or if not renewed shall be deemed delinquent. For any renewal application postmarked after the expiration date but received by the administrator by the following March 1, the licensee shall pay a delinquency fee of fifty dollars in addition to the renewal fee. No renewal applications will be accepted after that time.

(2) A salesperson registered with a broker-dealer that is a member of a national securities association or a national securities exchange shall make application for renewal using one of the following methods:

(a) Through the Central Registration Depository (CRD) prior to the CRD's closing date for renewals; or

(b) With the securities division after the closing date for renewals through the CRD.

(3) A salesperson registered with a broker-dealer that is not a member of a national securities association or a national securities exchange shall make application for renewal with the securities division.

NEW SECTION

WAC 460-22B-060 Duty to update application. A salesperson who has been issued a license under this chapter has a duty to update his or her application. If an event occurs that causes a salesperson's application to be inaccurate, the salesperson shall amend his or her application within thirty days of the occurrence of the event. The amendment shall be made as follows:

(1) For a salesperson of a broker-dealer that is a member of a national securities association or national securities exchange, through the Central Registration Depository; or

(2) For a salesperson of a broker-dealer that is not a member of a national securities association or national securities exchange, by filing an amended Form U-4 with the securities division.

NEW SECTION

WAC 460-22B-070 Dual representation and affiliation. (1) A person is dually registered for the purpose of this section if that person is simultaneously registered with the securities division, department of financial institutions with:

(a) More than one broker-dealer;

(b) One or more broker-dealers and one or more issuers;

(c) One or more broker-dealers and one or more investment advisers; as a securities salesperson, investment adviser salesperson, broker-dealer, or investment adviser. A person may be dually registered in this state if all broker-dealers, issuers, or investment advisers employing or engaging such person consent to such dual registration in writing in a form acceptable to the administrator.

(2) The consent for subsection (1) of this section shall contain the following provisions:

(a) The effective date of the dual employment or engagement with the respective broker-dealers, issuers, or investment advisers;

(b) Consent by each broker-dealer, issuer, or investment adviser employing or engaging such person to the employment or engagement of the person by all other broker-dealers, issuers, or investment advisers; and

(c) An agreement that each broker-dealer, issuer, or investment adviser employing or engaging such person will register the person with the securities division and pay the applicable registration fee.

(3) A separate application for registration or renewal shall be made by each broker-dealer, issuer, or investment adviser desiring to employ or engage the person. An executed copy of the consent required by subsection (1) of this section shall accompany the application. The application shall be filed with the administrator and shall contain such exhibits and information as may be required by the administrator, together with the fees required by RCW 21.20.340.

(4) A broker-dealer or investment adviser who employs or engages a securities salesperson or investment adviser salesperson and who consents to the dual registration of that securities salesperson or investment adviser salesperson shall supervise all securities activities of that salesperson relating to the broker-dealer or investment adviser.

NEW SECTION

WAC 460-22B-080 Receipt of both securities sales commission and investment adviser fees. (1) It shall constitute a violation of RCW 21.20.010 and 21.20.020 for any person to receive both a sales commission for the purchase or sale of any security and compensation for rendering investment advice concerning said security; provided, however, receipt of both a sales commission and advisory compensation shall not constitute such violation if either:

(a) Such person provides to each customer receiving advice a disclosure of conflict of interest on a form promulgated by the administrator to be given to the customer at least forty-eight hours before the customer agrees to have the person render the advice; or

(b) The administrator by rule or order waives the necessity of such disclosure on said form as not being necessary in the public interest for the protection of investors.

(2) For the purposes of this provision, the term "person" shall include all "affiliates" of such person as defined in WAC 460-10A-060.

(3) In lieu of giving disclosure forty-eight hours before the agreement, the customer may be given the disclosure document simultaneous to the signing of the agreement so long as the customer is also given five days to cancel the agreement.

(4) A person charging a wrap fee to a customer who delivers a copy of Schedule H of Form ADV describing the wrap fee arrangement to that customer shall be deemed to have satisfied the disclosure requirement of subsection (1)(a) of this section as to the wrap fee arrangement.

NEW SECTION

WAC 460-22B-090 Dishonest and unethical business practices-salespersons. The phrase "dishonest or unethical practices" as used in RCW 21.20.110(7) as applied to salespersons, is hereby defined to include any of the following:

(1) Engaging in the practice of lending or borrowing money or securities from a customer, or acting as a custodian for money, securities or an executed stock power of a customer;

(2) Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction;

(3) Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited;

(4) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents;

(5) Dividing or otherwise splitting the agent's commissions, profits or other compensation from the purchase or sale of securities with any person not also registered for the same broker-dealer, or for a broker-dealer under direct or indirect common control;

(6) Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account;

(7) Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer;

(8) Executing a transaction on behalf of a customer without authorization to do so;

(9) Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the execution of orders;

(10) Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement promptly after the initial transaction in the account;

(11) Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit;

(12) Failing to furnish to a customer purchasing securities in an offering, no later than the date of confirmation of the transaction, a final or preliminary prospectus, and if the latter, failing to furnish a final prospectus within a reasonable period after the effective date of the offering;

(13) Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive or fraudulent device, practice, plan, program, design or contrivance, which may include but not be limited to:

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(a) Effecting any transaction in a security which involves no change in the beneficial ownership thereof;

(b) Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security;

(c) Effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others;

(14) Guaranteeing a customer against loss in any securities account for such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer;

(15) Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation presents a bona fide bid for, or offer of, such security;

(16) Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. An example of such practice would be a distribution of any nonfactual data, material or presentation based on conjecture, unfounded or unrealistic claims or assertions of any brochure, flyer, or display by words, pictures, graphs or otherwise designed to supplement, detract from, supersede or defeat the purpose or effect of any prospectus or disclosure;

(17) In connection with the solicitation of a sale or purchase of an OTC non-NASDAQ security, failing to promptly provide the most current prospectus or the most recently filed periodic report filed under Section 13 of the Securities Exchange Act, when requested to do so by a customer;

(18) Marking any order ticket or confirmation as unsolicited when in fact the transaction is solicited;

(19) Failing to comply with any applicable provision of the Rules of Fair Practice of the National Association of Securities Dealers or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission; or

(20) Any act or practice enumerated in WAC 460-21A-010.

The conduct set forth above is not inclusive. Engaging in other conduct such a forgery, embezzlement, nondisclosure, incomplete disclosure or misstatement of material facts, or manipulative or deceptive practices shall also be grounds for denial, suspension or revocation of registration.

Chapter 460-23B WAC
SALESPERSONS FOR ISSUERS

NEW SECTION

WAC 460-23B-010 Application. The rules contained in this chapter apply to the registration of securities salespersons for issuers.

NEW SECTION

WAC 460-23B-020 Registration procedure. Applications for registration of salespersons of issuers must be submitted to the securities administrator on Form U-4 together with the required fee and proof of passage of required examinations.

NEW SECTION

WAC 460-23B-030 Salesperson examination requirements. Every applicant for registration as a securities salesperson of an issuer shall pass the examinations specified below:

(1) For an officer or director of an issuer that is a corporation, or a general partner of an issuer that is a limited partnership, or a manager of an issuer that is a limited liability company seeking registration as a salesperson for an issuer of a single offering of the issuer who will receive no commissions or similar remuneration directly or indirectly in connection with the offer or sale of the issuer's securities, no examination is required;

(2) For an officer or director of the issuer seeking registration as a salesperson for an issuer of a single offering of the issuer, the uniform state law examination (series 63); or the uniform combined state law examination (series 66) is required;

(3) For all other salespersons of issuers:

(a) The uniform securities agent state law examination (series 63); or the uniform combined state law examination (series 66); and

(b) The appropriate qualifying examination administered by the National Association of Securities Dealers, Inc. for the activities in which the salesperson is to engage;

(4) Any individual out of the securities business of effecting transactions in securities for less than two years and who has previously passed the required examinations in subsection (2) or (3) of this section or the Washington state securities examination shall not be required to retake the examination(s) to be eligible to be relicensed upon application.

NEW SECTION

WAC 460-23B-040 Expiration of salesperson license, renewal procedure, and delinquency fees. A license issued to a salesperson representing an issuer shall expire on the expiration date of the securities registration of the issuer. The license shall be renewed, or if not renewed, shall be deemed delinquent at the expiration of the issuer's securities registration. For any renewal application postmarked after the expiration date but received by the administrator within two months of the expiration date, the licensee shall pay a delinquency fee of fifty dollars in addition to the renewal

fee. No renewal applications will be accepted after that time.

NEW SECTION

WAC 460-23B-050 Duty to update application. A salesperson who has been issued a license has a duty to update his or her application. If an event occurs that causes a salesperson's application to be inaccurate, the salesperson shall file an amended Form U-4 with the Securities Division within thirty days of the occurrence of the event.

NEW SECTION

WAC 460-23B-060 Exemption from registration for condominium salespersons. An exemption from registration as a broker-dealer or salesperson will be granted to those engaged in exclusively selling condominium securities provided:

(1) That the person claiming the exemption give written notice of their intention to claim the exemption five working days prior to exercising the exemption; and

(2) They submit their Washington real estate license number to the division.

If for any reason the person claiming this exemption should have their Washington real estate license cancelled, suspended or revoked then this exemption will not apply to any further transactions.

NEW SECTION

WAC 460-24A-046 Dual representation and affiliation. (1) A person is dually registered for the purpose of this section if that person is simultaneously registered with the securities division, department of financial institutions with:

(a) More than one investment adviser;

(b) One or more broker-dealers and one or more investment advisers; as a securities salesperson, investment adviser salesperson, broker-dealer, or investment adviser;

(c) One or more investment advisers and one or more issuers, as an investment adviser, investment adviser salesperson, or securities salesperson.

A person may be dually registered in this state if all broker-dealers, issuers, or investment advisers employing or engaging such person consent to such dual registration in writing in a form acceptable to the administrator.

(2) The consent for subsection (1) of this section shall contain the following provisions:

(a) The effective date of the dual employment or engagement with the respective broker-dealers, issuers, or investment advisers;

(b) Consent by each broker-dealer, issuer, or investment adviser employing or engaging such person to the employment or engagement of the person by all other broker-dealers, issuers, or investment advisers; and

(c) An agreement that each broker-dealer, issuer, or investment adviser employing or engaging such person will register the person with the securities division and pay the applicable registration fee.

(3) A separate application for registration or renewal shall be made by each broker-dealer, issuer, or investment adviser desiring to employ or engage the person. An executed copy of the consent required by subsection (1) of this section shall accompany the application. The application shall be filed with the administrator and shall contain such exhibits and information as may be required by the administrator, together with the fees required by RCW 21.20.340.

(4) A broker-dealer or investment adviser who employs or engages a securities salesperson or investment adviser salesperson and who consents to the dual registration of that securities salesperson or investment adviser salesperson shall supervise all securities activities of that salesperson relating to the broker-dealer or investment adviser.

AMENDATORY SECTION (Amending WSR 90-05-003, filed 2/9/90, effective 3/12/90)

WAC 460-24A-050 Investment adviser and investment adviser salesperson (representative) registration and examinations. (1) In order for an applicant to become licensed in this state as an investment adviser the individual applicant, an officer of the applicant if the applicant is a corporation, or a general partner of the applicant if the applicant is a partnership, shall:

(a) Pass the uniform investment adviser law examination (series 65); or the uniform combined state law examination (series 66); and

(b)(i) Pass the NASD general securities principal examination (series 24); or

(ii) ((~~Pass the NASD investment company products/ variable contracts principal examination (series 26); or~~

~~(iii)~~)) Hold one of the following designations:

(A) Chartered investment counselor;

(B) Chartered financial analyst;

(C) Certified financial planner;

(D) Chartered financial consultant;

(E) Accredited personal financial specialist; and

(c) File a completed Form ADV.

(2) If the individual officer who takes the examination on behalf of a corporate applicant or the individual general partner who takes the examination on behalf of a partnership ceases to be an officer or general partner, then the investment adviser must notify the securities division of a substitute officer or general partner who has passed the examinations required in subsection (1) of this section within two months in order to maintain the investment adviser license.

(3) In order to become licensed in this state as an investment adviser salesperson (representative), an applicant shall:

(a) Pass the uniform investment adviser law examination (series 65); or the uniform combined state law examination (series 66); and

(b)(i) Pass the NASD general securities representative examination (series 7); or

(ii) ((~~Pass the NASD investment company products/ variable contracts limited representative qualifications examination (series 6); or~~

~~(iii)~~)) Hold one of the following designations:

(A) Chartered investment counselor;

(B) Chartered financial analyst;

(C) Certified financial planner;

(D) Chartered financial consultant;

(E) Accredited personal financial specialist; and

(c) File a completed Form U-4.

PROPOSED

PROPOSED

(4) The administrator may waive the testing requirements in subsection (3) of this section for an investment adviser representative whose activities will be limited to supervising the firm's investment advisory activities in Washington, provided that the applicant has been employed for five years preceding the filing of the application in a supervisory capacity, or as a portfolio manager, by an investment adviser registered under the Investment Advisers Act of 1940 for at least five years and the investment adviser has been engaged in rendering "investment supervisory services" as defined in section 202 (a)(13) of the Investment Advisers Act of 1940.

(5) Any individual who has been retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients any time during the two years prior to application and who has previously passed the required examination in subsection (1) or (3) of this section or the Washington state investment advisers examination shall not be required to retake the examination(s) to be eligible to be relicensed as an investment adviser salesperson (representative) upon application((~~: *Provided*, That until January 1, 1992, the uniform securities agent state law examination (series 63) may be substituted for the uniform investment adviser law examination (series 65) for the purpose of fulfilling the requirements of subsections (1) and (3) of this section~~)).

AMENDATORY SECTION (Amending Order SDO-047-88, filed 8/8/88)

WAC 460-24A-055 Effective date of license. All investment adviser and investment adviser salesperson licenses shall be effective until December 31 of the year of issuance at which time the license shall be renewed, or if not renewed, shall be deemed delinquent. For any renewal application postmarked after the expiration date but received by the director on or before March 1, the licensee shall pay a delinquency fee in addition to the renewal fee. No renewal applications will be accepted after that time. The delinquency fee for investment advisers shall be ((~~twenty-five~~)) one hundred dollars. The delinquency fee for investment adviser salespersons shall be ((~~ten~~)) fifty dollars.

AMENDATORY SECTION (Amending Order SDO-124-89, filed 8/17/89, effective 9/17/89)

WAC 460-33A-080 Registration and examination of mortgage broker-dealers. (1) Every person acting as a mortgage broker-dealer, unless otherwise exempt, must first obtain a broker-dealer's license under the provisions of this chapter ((~~460-20A-WAC~~)).

(2) Every applicant under this section shall provide the securities administrator proof of compliance with ((~~either~~)) WAC 460-33A-040 ((~~or 460-20A-100~~)).

(3) Every applicant for registration as a mortgage broker-dealer shall file a completed mortgage broker-dealer application form, together with the applicable filing fee.

(4)(a) Every applicant under this section shall submit to the securities administrator proof that the individual applicant, an officer if the applicant is a corporation, a manager if the applicant is a limited liability company, or a general partner if the applicant is a partnership has passed the uniform securities agent law examination (series 63) within the last two years.

(b) Any individual out of the business of effecting transactions in securities for less than two years and who has previously passed the required examination in (a) of this subsection or the Washington state securities examination shall not be required to retake the examination in order for the mortgage broker-dealer to be eligible for registration under this chapter.

NEW SECTION

WAC 460-33A-081 Expiration of mortgage broker-dealer registration, renewal procedure, delinquency fees. A license issued to a mortgage broker-dealer shall expire on the expiration date of the securities registration of the mortgage paper securities offered by the mortgage broker-dealer. The license shall be renewed, or if not renewed, shall be deemed delinquent at the expiration of the issuer's securities registration. For any renewal application postmarked after the expiration date but received by the administrator within two months of the expiration date, the licensee shall pay a delinquency fee of one hundred dollars in addition to the renewal fee. No renewal applications will be accepted after that time.

AMENDATORY SECTION (Amending Order SDO-124-89, filed 8/17/89, effective 9/17/89)

WAC 460-33A-085 Registration and examination of mortgage securities salespersons. (1) Every person acting as a mortgage securities salesperson, unless otherwise exempt, must first obtain a salesperson's license under the provisions of this chapter ((~~460-20A-WAC~~)) and be employed by a broker-dealer or mortgage broker-dealer.

(2) Every applicant under this section shall file a completed Form U-4, together with the applicable filing fee.

(3) Every applicant under this section shall submit proof of passage of the uniform securities agent law examination (series 63) within the last two years.

NEW SECTION

WAC 460-33A-086 Expiration of mortgage securities salesperson registration, renewal procedure, and delinquency fees. A license issued to a mortgage securities salesperson shall expire on the expiration date of the securities registration of the mortgage paper securities offered by the mortgage broker-dealer. The license shall be renewed, or if not renewed, shall be deemed delinquent at the expiration of the issuer's securities registration. For any renewal application postmarked after the expiration date but received by the administrator within two months of the expiration date, the licensee shall pay a delinquency fee of fifty dollars in addition to the renewal fee. No renewal applications will be accepted after that time.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 460-20A-005 Definitions.

WAC 460-20A-008	Fraudulent practices of broker-dealers and sales agents.
WAC 460-20A-010	Churning.
WAC 460-20A-015	Confirmation of transactions.
WAC 460-20A-020	Disclosure of control of issuer.
WAC 460-20A-025	Disclosure of interest in distributions.
WAC 460-20A-030	Record of transactions in discretionary accounts.
WAC 460-20A-035	Control of the market.
WAC 460-20A-045	Transmission or maintenance of payments received in connection with underwritings.
WAC 460-20A-050	Disclosure and other requirements when extending or arranging credit in certain transactions.
WAC 460-20A-100	Minimum net capital requirement for broker-dealers.
WAC 460-20A-105	Net capital defined.
WAC 460-20A-200	Books and records of broker-dealers.
WAC 460-20A-205	Preservation of records.
WAC 460-20A-210	Notice of changes by broker-dealers.
WAC 460-20A-215	Notice of complaint.
WAC 460-20A-220	Salesperson registration and examination.
WAC 460-20A-230	Broker-dealer registration and examination.
WAC 460-20A-235	Condominium salesmen and broker-dealers.
WAC 460-20A-400	Dual representation and affiliation.
WAC 460-20A-405	Receipt of both securities sales commission and investment adviser fees.
WAC 460-20A-410	Part-time salesman or investment adviser salesman.
WAC 460-20A-415	Broker-dealer financial statement.
WAC 460-20A-420	Dishonest or unethical business practices—Broker-dealers.
WAC 460-20A-425	Dishonest or unethical business practices—Salespersons.

WSR 95-11-081
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed May 17, 1995, 1:58 p.m.]

Original Notice.

Title of Rule: WAC 458-20-183 Amusement and recreation activities and businesses.

Purpose: To give tax reporting information to persons engaged in providing amusement, recreation, and physical fitness services.

Statutory Authority for Adoption: RCW 82.32.300.

Statute Being Implemented: Title 82 RCW. Particularly RCW 82.04.050, 82.08.0291.

Summary: This rule is being revised in order to implement statutory changes that resulted in the provision of "physical fitness services" being classified as a retail sale (chapter 25, Laws of 1993 1st sp. sess.) and the subsequent passage of an exemption from the definition of retail sale for physical fitness services provided by nonprofit youth organizations (chapter 85, Laws of 1994). Additionally, the rule is being revised to incorporate pertinent reporting instructions for taxpayers who receive income in the form of initiation fees and/or dues. This information is currently contained in WAC 458-20-114. WAC 458-20-114 is proposed to be repealed in its entirety.

Reasons Supporting Proposal: To incorporate statutory changes and to consolidate all reporting information for persons engaged in providing amusement, recreation, and physical fitness services.

Name of Agency Personnel Responsible for Drafting: Kerry J. Breen, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 664-0087; Implementation: Les Jaster, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-7150; and Enforcement: Russell Brubaker, 711 Capitol Way South, Suite #303, Olympia, WA, (360) 586-0257.

Name of Proponent: Department of Revenue, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: This rule explains the taxation of amusement, recreation, and physical fitness services. Revision is required due to statutory changes in 1993 and 1994. Pertinent reporting information currently contained in WAC 458-20-114 has been included in this revision. This will result in a taxpayer being able to look to one source in order to classify their income and determine how to report their income if received in the form of dues and/or initiation fees.

Proposal Changes the Following Existing Rules: This is an amendment to WAC 458-20-183. The rule has been revised to incorporate 1993 and 1994 statutory changes. The 1993 change resulted in the provision of "physical fitness services" being classified as a retail sale (chapter 25, Laws of 1993 1st sp. sess.). The 1994 change resulted in an exemption from the definition of retail sale for physical fitness services provided by nonprofit youth organizations (chapter 85, Laws of 1994). Additionally, the rule is being revised to incorporate pertinent reporting instructions for taxpayers who receive income in the form of initiation fees and/or dues. This information is currently contained in WAC 458-20-114. WAC 458-20-114 is proposed to be repealed in its entirety.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The Department of Revenue has reviewed administrative provisions contained in these rules in order to determine the economic impact on small businesses. The proposed amendments to these rules will have minor or negligible impact.

Hearing Location: General Administration Building, Director's Conference Room, Room #402, 11th and Columbia Streets, Olympia, Washington, on July 6, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Accommodations or assistance for persons with disabilities or to request

a copy of the information in an alternate format contact Sandra Yuen, TDD 1-800-451-7985, or (360) 753-3217.

Submit Written Comments to: Kerry J. Breen, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, FAX (360) 664-0693.

Date of Intended Adoption: July 14, 1995.

May 17, 1995
Russell W. Brubaker
Assistant Director

PROPOSED

AMENDATORY SECTION (Amending WSR 84-12-046, filed 6/1/84)

WAC 458-20-183 Amusement, ((~~and~~)) recreation, and physical fitness services ((~~activities and businesses~~)). ~~The term "sale at retail" is defined by RCW 82.04.050 to include the sale of or charge made by persons engaging in certain business activities, including "amusement and recreation businesses." The statute indicates the type of activities and business intended to be taxed under this classification; i.e., "including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, and others." Thus, while certain activities are specifically included within the statutory definition (golf, pool, etc.) it is clear that the types of activities and businesses intended to be taxed under the retail sales tax classification are those in which payment is for participation.~~

~~The term "sale at retail" includes all activities wherein a person pays for the right to actively participate in an amusement or recreation activity. The term does not include the sale of or charge made for providing facilities where a person is merely a spectator or passive participant in the activity, such as movies, concerts, sports events, and the like. Nor does the term include activities of an instructional nature, even though the person is physically participating in the activity.~~

~~Health and fitness activities are distinguishable from amusement and recreation activities. Thus, health and fitness activities such as body building, exercise rooms and classes, weight lifting, nautilus facilities, saunas, massages, and the like are not taxable as retail sales, even though they may involve some active participation.~~

~~Coin operated amusement devices are not governed by this section. See WAC 458-20-187.~~

~~The term "sale at retail" also includes the sale of or charge made for providing camping and other outdoor living facilities regardless of whether or not additional recreation facilities of the type mentioned above are available for use.~~

~~Local governmental agencies which provide recreational, social, educational, health and fitness, and similar public programs are generally not making retail sales. Registration fees, league fees, and similar charges collected by such agencies may be taxable or exempt of business and occupation tax depending upon the nature of the programs and services provided. In any case, the taxability of such agencies and charges is governed by WAC 458-20-189, rather than this section on "amusement and recreation businesses."~~

~~BUSINESS AND OCCUPATION TAX~~

~~Gross receipts from the kind of amusement and recreation activities and businesses involving active participation as described above are taxable under the classification retailing.~~

~~Such persons are also taxable under the retailing classification upon gross receipts from sales of meals, drinks, tobacco, or other property sold by them.~~

~~Gross receipts from instruction and passive participation in amusement and recreation activities and businesses are taxable under the classification service and other activities.~~

~~RETAIL SALES TAX~~

~~The retail sales tax must be collected upon charges for admissions and the use of facilities by persons engaged in the amusement and recreation activities and businesses involving active participation as described above. The retail sales tax must also be collected upon sales of cigarettes and other merchandise by persons engaging in such businesses. See WAC 458-20-244 for sales of food products.~~

~~When the charge for merchandise is included within a charge for admission which is not a "sale at retail" as defined herein, the retail sales tax applies to the charge made for both merchandise and admission, unless a proper segregation of such charge is made upon the books of account of the seller.~~

~~The retail sales tax applies upon the sale or rental of all equipment and supplies to persons conducting places of amusement and recreation, except merchandise which is resold by them.~~

~~The retail sales tax does not apply to the charge made for instruction or passive participation in an amusement or recreation activity. Neither does the sales tax apply to charges or fees for health and fitness activities as described in this section. For the sales tax liability of governmental agencies, see WAC 458-20-189.~~

(1) **Introduction.** This section provides tax reporting instructions for persons who provide recreation, amusement, and physical fitness services, including persons who receive their income in the form of dues and initiation fees. Section 301, chapter 25, Laws of 1993 sp. sess., amended RCW 82.04.050 to include as a retail sale "physical fitness services." This change became effective July 1, 1993. Physical fitness services were previously taxed under the service and other business activities classification. Amusement and recreation services were retail sales prior to the 1993 law amendment and the tax classification remains unchanged for these activities.

(a) Local governmental agencies that provide amusement, recreation, and physical fitness services should also refer to WAC 458-20-189 (Sales to and by the state of Washington, counties, cities, school districts, and other municipal subdivisions).

(b) Persons engaged in operating coin operated amusement devices should refer to WAC 458-20-187 (Coin operated vending machines, amusement devices and service machines).

(c) Persons engaged in providing camping and outdoor living facilities should refer to WAC 458-20-118 (Sale or rental of real estate, license to use real estate) and WAC

458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.).

(2) **Definitions.** The following definitions apply throughout this section:

(a) "Amounts derived" means gross income from whatever source and however designated. It includes "gross proceeds of sales" and "gross income of the business" as those terms are defined by RCW 82.04.070 and 82.04.080, respectively. It shall also include income attributable to bona fide "initiation fees" and bona fide "dues."

(b) "Amusement and recreation services" include, but are not limited to: Golf, pool, billiards, skating, bowling, swimming, bungee jumping, ski lifts and tows, basketball, racquet ball, handball, squash, tennis, and all batting cages. "Amusement and recreation services" also include the provision of related facilities such as basketball courts, tennis courts, handball courts, swimming pools, and charges made for providing the opportunity to dance. The term "amusement and recreation services" does not include instructional lessons to learn a particular activity such as tennis lessons, swimming lessons, or archery lessons.

(c) "Any additional charge" means a price or payment other than bona fide initiation fees or dues, paid by persons for particular goods and services received. The additional charge must be reasonable and any business and/or sales taxes must be paid upon such charges in order to qualify other income denominated as "bona fide dues" or "fees" to be deductible. The reasonableness of any additional charge will be based on one of the following two criteria:

(i) It must cover all costs reasonably related to furnishing the goods or services; or

(ii) It must be comparable with charges made for similar goods or services by other comparable businesses.

(d) "Direct overhead costs" include all items of expense immediately associated with the specific goods or services for which the costs of production method is used. For example, the salary of a swimming pool lifeguard or the salary of a golf club's greenskeeper are both direct overhead costs in providing swimming and golfing respectively.

(e) "Dues" means those amounts periodically paid by members solely for the purpose of entitling those persons to continued membership in the club or similar organization. It shall not include any amounts paid for goods or services rendered to the member by the club or similar organization.

(f) "Entry fees" means those amounts paid solely to allow a person the privilege of entering a tournament or other type of competition. The term does not include any amounts charged for the underlying activity.

(g) "Goods or services rendered" shall include those amusement, recreation, and physical fitness services defined to be retail sales in (m) of this subsection. Also see, WAC 458-20-166 (Hotels, motels, boarding houses, rooming houses, resorts, summer camps, trailer camps, etc.) and WAC 458-20-244 (Food products). The term shall include the totality or aggregate of goods or services available to members. It is not determinative that some members actually receive more goods or actually enjoy more services than others so long as the totality of the goods or services offered are made available to members in general.

(h) "Indirect overhead costs" means overhead costs incurred by the service provider that are not immediately associated with the specific goods and services. These costs include a pro rata share of total operating costs, including all executive salaries and employee salaries that are not "direct overhead costs" as that term is defined in (d) of this subsection, as well as a pro rata share of administrative expenses and the cost of depreciable capital assets.

(i) "Initiation fees" means those amounts paid solely to initially admit a person as a member to a club or organization. "Bona fide initiation fees" within the context of this rule shall include only those one-time amounts paid which genuinely represent the value of membership in a club or similar organization. It shall not include any amount paid for or attributable to the privilege of receiving any goods or services other than mere nominal membership.

(j) "League fees" means those amounts paid solely for the privilege of allowing a person or a person's team to join an association of sports teams or clubs that compete chiefly amongst themselves. The term does not include any amounts charged for the underlying activity.

(k) "Nonprofit youth organization" means a nonprofit organization engaged in character building of youth which is exempt from property tax under RCW 84.36.030.

(l) "Physical fitness services" include, but are not limited to: All exercise classes, whether aerobic, dance, water, jazzercise, etc., providing running tracks, weight lifting, weight training, use of exercise equipment, such as treadmills, bicycles, stair-masters and rowing machines, and providing personal trainers (i.e., a person who assesses an individual's workout needs and tailors a physical fitness workout program to meet those individual needs). "Physical fitness services" do not include instructional lessons such as those for self-defense, martial arts, yoga, and stress-management. Nor do these services include instructional lessons for activities such as tennis, golf, swimming, etc. "Instructional lessons" can be distinguished from "exercise classes" in that instruction in the activity is the primary focus in the former and exercise is the primary focus in the latter.

(m) "Sale at retail" or "retail sale" include the sale or charge made by persons engaged in providing "amusement and recreation services" and "physical fitness services" as those terms are defined in (b) and (l) of this subsection. The term "sale at retail" or "retail sale" does not include: The sale of or charge made for providing facilities where a person is merely a spectator, such as movies, concerts, sporting events, and the like; the sale of or charge made for instructional lessons, or league fees and/or entry fees; charges made for carnival rides where the customer purchases tickets at a central ticket distribution point and then the customer is subsequently able to use the purchased tickets to gain admission to an assortment of rides or attractions; or, the charge made for entry to an amusement park or theme park where the predominant activities in the area are similar to those found at carnivals.

(n) "Significant amount" relates to the quantity or degree of goods or services rendered and made available to members by the organization. "Significant" is defined as having great value or the state of being important.

(o) "Value of such goods or services" means the market value of similar goods or services or computed value based on costs of production.

(3) **Business and occupation tax.**

(a) **Retailing classification.** Gross receipts from the kind of amusement, recreation, and physical fitness services

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defined to be retail sales in subsection (2)(m) of this section are taxable under the retailing classification. Persons engaged in providing these activities are also taxable under the retailing classification upon gross receipts from sales of meals, drinks, sweat shirts, or other property sold by them.

(b) **Service and other activities classification.** Gross receipts from activities not defined to be retail sales, such as tennis lessons, golf lessons, and other types of instructional lessons, are taxable under the service and other activities classification. Persons providing licenses to use real estate, such as separately itemized billings for locker rentals, are also taxable under this classification. See WAC 458-20-118 (Sale or rental of real estate, license to use real estate).

(4) **Receiving income in the form of dues and/or initiation fees.**

(a) **General principles.** For the purposes of the business and occupation tax, all amounts derived from initiation fees and dues must be reported as gross income which then must be apportioned between taxable and deductible income. The following general principles apply to providing amusement, recreation, and physical fitness services when income is received in the form of dues and/or initiation fees:

(i) RCW 82.04.4282 provides for a business and occupation tax deduction for amounts derived from activities and charges of essentially a nonbusiness nature. The scope of this statutory deduction is limited to situations where no business or proprietary activity (including the rendering of goods or services) is engaged in which directly generates the income claimed for deduction. Many for-profit or nonprofit entities may receive "amounts derived," as defined in this section, which consist of a mixture of tax deductible amounts (bona fide initiation fees and dues) and taxable amounts (payment for significant goods and services rendered). To distinguish between these kinds of income, the law requires that tax exemption provisions be strictly construed against the person claiming the exemption. Also, RCW 82.32.070 requires the maintenance of suitable records as may be necessary to determine the amount of any tax due. The result of these statutory requirements is that all persons must keep adequate records sufficient to establish their entitlement to any claimed tax exemption or deduction.

(ii) The law does not contemplate that the deduction provided for by RCW 82.04.4282 should be granted merely because the payments required to be made by members or customers are designated as "initiation fees" or "dues." The statutory deduction is not available for outright sales of tangible personal property or for providing facilities or services for a specific charge. Neither is it available if dues are in exchange for any significant amounts of goods or services rendered by the recipient thereof to members without any additional charge to the member, or if the dues are graduated upon the amount of goods or services rendered. Thus, it is only those initiation fees and dues which are paid solely for the express privilege of belonging as a member of a club, organization, or society, which are deductible.

(iii) In applying RCW 82.04.4282, no distinction is made between the kinds of clubs, organizations, associations, or other entities which may be eligible for this deduction. They may be operated for profit or nonprofit. They may be owned by the members, incorporated, or operating as a partnership, limited liability company, joint venture, sole proprietorship, or cooperative group. They may be of a charitable, fraternal, social, political, benevolent, commercial, or other nature. The availability of the deduction is determined solely by the nature of the activity or charge which generates the "amounts derived" as that term is defined in subsection (2)(a) of this section.

(iv) Nonprofit youth organizations, as defined in subsection (2)(k) of this section, may deduct fees or dues received from members even though the members are entitled to use the organization's facilities, including camping and recreational facilities, in return for such payments. (See RCW 82.04.4271.)

(b) **Allocation of income.** Persons who derive income from initiation fees and dues may find that they have incurred business and occupation tax liability under both the retailing and service and other activities classifications. For example, an organization may furnish exercise equipment as well as provide lessons in martial arts to its members in return for payment of dues. The former is a retailing taxable activity while the latter is taxable under the service business tax. These taxes are at different rates. Once the income has been allocated between taxable and deductible amounts, the parts of taxable income attributable to either retailing activities or service activities must be reported on the combined excise tax return under the appropriate classification and under the prevailing tax rates. In addition, state and local retail sales taxes measured by the retailing portions must be separately collected from dues paying members, reported, and remitted with the same excise tax return.

(c) **Alternative methods of reporting.** Persons who receive any "amounts derived" from initiation fees and/or dues may report their tax liabilities and determine the amount of tax reportable under different classifications (retailing or service) by use of two alternative allocation methods. These mutually exclusive methods are:

(i) **Actual records of facilities usage.**

(A) Persons may allocate their income based upon such actual records of facilities usage as are maintained. This method is accomplished by either: The allocation of a reasonable charge for the specific goods or services rendered (however, in no case shall any allocation of any separate charge for any goods or services be deemed "reasonable" if the aggregate of such charges is insufficient to cover the costs of providing such goods or services); or, the average comparable charges for such goods or services made by other comparable businesses.

(B) The actual records of facilities usage method must reflect the nature of the goods or services and the frequency of use by the membership, either from an actual tally of times used or a periodic study of the average membership use of facilities. Actual usage reporting may also be based upon a graduated or sliding fees and dues structure. For example, an organization may charge different initiation fees or dues rates for a social membership than for a playing membership. The difference between such rates is attributable to the value of the goods or services rendered. It constitutes the taxable portion of the "amounts derived" allocable to that particular activity. Because of the broad diversification of methods by which "amounts derived" may be assessed or charged to members, the actual records of

usage method of reporting may vary from organization to organization.

(C) Organizations which provide more than one kind of "goods or services" as defined in subsection (2)(g) of this section, may provide such actual records for each separate kind of goods or services rendered. Based upon this method, the total of apportioned "taxable" income may be subtracted from total gross income to derive the amount of gross income which is entitled to deduction as "bona fide initiation fees and dues" under RCW 82.04.4282; or

(ii) **Cost of production method.**

(A) The cost of production allocation method is based upon the cost of production of goods or services rendered. Persons using this method are advised to seek the department's review of the cost accounting methods applied, in order to avoid possible tax deficiency assessment if records are audited. In such cases, the cost of production shall include all items of expense attributable to the particular facility (goods or services) made available to members, including direct and indirect overhead costs.

(B) No portion of assets which have been fully depreciated will be included in computing overhead costs, nor will there be included any costs attributable to membership recruitment and advertising, or providing members with the indicia of membership (membership cards, certificates, contracts of rights, etc.).

(C) The cost of production method is performed by multiplying gross income (all "amounts derived") by a fraction, the numerator of which is the direct and indirect costs associated with providing any specific goods or service, and the denominator of which is the organization's total operating costs. The result is the portion of "amounts derived" that is allocable to the taxable facility (goods or services rendered). If more than one kind of facility (goods or services) is made available to members, this formula must be applied for each facility in order to determine the total of taxable and deductible amounts and to determine the amount of taxable income to report as either retailing taxable or service taxable. The balance of gross amounts derived is deductible as bona fide initiation fees or dues.

(D) Under very unique circumstances and only upon advance written request and approval, the department will consider variations of the foregoing accounting methods as well as unique factors.

(E) Unless income accounting and reporting are accomplished by one or a combination of methods outlined in this section, or under a unique reporting method authorized in advance by the department, it will be presumed that all "amounts derived" by any person who provides "goods or services" as defined herein, constitute taxable, nondeductible amounts.

(5) **Retail sales tax.**

(a) The retail sales tax must be collected upon charges for admissions, the use of facilities, equipment, and exercise classes by all persons engaged in the amusement, recreation, and physical fitness services that are defined to be retail sales in subsection (2)(m) of this section. The retail sales tax must also be collected upon sales of food, drinks and other merchandise by persons engaging in such businesses. See WAC 458-20-244 (Food products). In the case of persons who receive their income in the form of dues and/or initiation fees, the amount of gross receipts determined to be taxable under the retailing business and occupation classification shall be used to determine the person's retail sales tax liability under this subsection.

(b) When the charge for merchandise is included within a charge for admission which is not a "sale at retail" as defined herein, the retail sales tax applies to the charge made for both merchandise and admission, unless a proper segregation of such charge is made in the billing to the customer and upon the books of account of the seller.

(c) The retail sales tax applies upon the purchase or rental of all equipment and supplies by persons conducting places of amusement, recreation, and physical fitness, other than merchandise that is actually resold by them. For example, the retail sales tax applies to purchases of such things as soap or shampoo provided at no additional charge to members of a health club.

(d) Persons engaged in the provision of amusement, recreation, and physical fitness services may waive collection of tax from the consumer and pay the retail sales tax directly to the department of revenue when sales are made under conditions of business such as to render impracticable the collection of the tax as a separate item.

(6) **Transitory provisions for nonprofit youth organizations.** The 1993 amendment of RCW 82.04.050 resulted in "physical fitness services" provided by nonprofit youth organizations being classified as retail sales. However, section 1, chapter 85, Laws of 1994, amended RCW 82.08.0291 and thereby exempted from the definition of retail sale, the sale of such services by a nonprofit youth organization to members of the organization. This change became effective July 1, 1994. Therefore, nonprofit youth organizations are only liable for retail sales tax on the sale or charge made for "physical fitness services" from July 1, 1993, to June 30, 1994. Nonprofit youth organizations were previously exempt from the collection of retail sales tax on "amusement and recreation services" (RCW 82.08.0291) and were previously not subject to retailing business and occupation tax on both the provision of "physical fitness services" and "amusement and recreation services" (RCW 82.04.4271). Nonprofit youth organizations, however, may have tax liabilities for other types of activities, such as retail sales of food, retail sales of tangible personal property, or the license to use real estate, as discussed above.

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

Reviser's note: The typographical 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 95-11-082
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 17, 1995, 3:50 p.m.]

Effective immediately, the Department of Agriculture, Food Safety and Animal Health Division, wishes to withdraw the proposed rule change which adopts the 1993 version of the PMO. The NCIMS committee has made some changes

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which will appear in the new version which will be out in September 1995. Washington State Register number is WSR 95-10-020 filed on April 26, 1995.

Candace A. Jacobs
Assistant Director

WSR 95-11-088
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 95-08—Filed May 18, 1995, 11:32 a.m.]

Original Notice.

Title of Rule: City of Seattle shoreline master program.

Purpose: Amending WAC 173-19-2521.

Statutory Authority for Adoption: Chapter 90.58 RCW.

Statute Being Implemented: Chapter 90.58 RCW.

Summary: The proposal would clarify that temporary signs are allowed in all shoreline environments, but are subject to existing restrictions applicable to all signs. The proposal would add the Lake Union construction limit line provisions from Seattle Municipal Code 24.82, which is being repealed, and delete references to Seattle Municipal Code Title 24, which was the former zoning code prior to Seattle's adoption of Title 23.

Reasons Supporting Proposal: Request for amendment was made by the city of Seattle.

Name of Agency Personnel Responsible for Drafting: Wayne Turnberg, NWRO, 3190 160th Avenue S.E., Bellevue, WA, (206) 649-7030; Implementation and Enforcement: Linda Crerar, 300 Desmond, Lacey, WA, (360) 407-7013.

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 objective of the amendment is two-fold. First, the amendment would clarify that temporary signs are allowed in all shoreline environments, but are subject to existing restrictions applicable to all signs. The changes, which are part of a much larger set of changes to Seattle's sign code, will help ensure consistency between the city's regulations and recent Washington and United States Supreme Court rulings on the exercise of first amendment rights through temporary signs. Second, the amendment is proposed as a housekeeping measure to delete references to Seattle Municipal Code Title 24, which was the former zoning code prior to the city's adoption of Title 23, and by adding the Lake Union construction limit line provisions from Seattle Municipal Code Chapter 24.82, which is being repealed by the city.

Proposal Changes the Following Existing Rules: See above.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Chapter 19.85 RCW, the Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than twenty percent of all industries or more than ten percent of any one industry. This amendment proposed by King County does not meet the criteria requiring the preparation of a small business economic impact statement.

Hearing Location: City Council Chambers, Seattle Municipal Building, 600 4th Avenue, 11th Floor, Seattle, WA, on June 28, 1995, at 6:30 p.m.

Assistance for Persons with Disabilities: Contact Kris Jessett by June 21, 1995, TDD (206) 649-4259, or (206) 649-7011 (voice).

Submit Written Comments to: Wayne Turnberg, NWRO, 3190 160th Avenue S.E., Bellevue, WA 98008-5452, FAX (206) 649-7098, by July 7, 1995.

Date of Intended Adoption: July 21, 1995.

May 9, 1995
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 94-24, filed 10/21/94, effective 11/21/94)

WAC 173-19-2521 Seattle, city of. City of Seattle master program approved June 30, 1976. Revision approved March 11, 1977. Revision approved September 10, 1980. Revision approved February 24, 1981. Revision approved May 14, 1981. Revision approved October 1, 1981. Revision approved January 5, 1982. Revision approved February 24, 1983. Revision approved June 7, 1983. Revision approved July 12, 1983. Revision approved October 13, 1983. Revision approved October 1, 1985. Revision approved October 20, 1986. Revision approved February 11, 1987. Revision approved November 10, 1987. Revision approved October 2, 1990. Revision approved September 16, 1992. Revision approved February 2, 1993. Revision approved May 18, 1993. Revision approved October 20, 1994. Revision approved July 21, 1995.

WSR 95-11-089
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Order 94-39—Filed May 18, 1995, 11:34 a.m.]

Original Notice.

Title of Rule: WAC 173-19-420 and 173-19-4205, the shoreline master program for the Thurston Region and the city of Tumwater.

Purpose: Adoption of revision to the shoreline master program into state master program, chapter 173-19 WAC.

Statutory Authority for Adoption: RCW 90.58.200.

Statute Being Implemented: Chapter 90.58 RCW, Shoreline Management Act of 1971.

Summary: The amendment revises the shoreline master program for the city of Tumwater and Thurston County by specifically listing Trosper Lake as a shoreline of the state and assigning a conservancy designation. It also recognizes the use of a hearings examiner system in Tumwater.

Reasons Supporting Proposal: Shoreline master programs and revisions are developed by local governments and submitted to the department for approval. The programs do not become effective until adopted by the department in accordance with the Shoreline Management Act.

Name of Agency Personnel Responsible for Drafting: Linda Whitcher, Washington State Department of Ecology,

Box 47775, Olympia, 98504-7775, (360) 407-6523; Implementation and Enforcement: Carol Fleskes, Washington State Department of Ecology, Box 47600, Olympia, 98504-7600, (260) 407-6602.

Name of Proponent: Department of Ecology, governmental.

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

Proposal Changes the Following Existing Rules: This amends chapter 173-19 WAC, Shoreline Management Act of 1971, state master program. The purpose is to establish an environment designation for Trosper Lake and add it to the maps and listings of regulated shorelines in Tumwater and Thurston County. Land owners and developers working within the shorelands and wetlands of Trospers Lake will required to comply with the shoreline master program for the Thurston Region. This amendment also adds Tumwater to the list of jurisdictions in Thurston County using a hearings examiner system. This will allow the examiner to review, condition and approve shoreline permits.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Chapter 19.85 RCW, Regulatory Fairness Act, requires mitigating action and filing of a small business economic impact statement when rule adoption will have an economic impact on more than twenty percent of all industries or more than ten percent of any one industry. This amendment proposed by Thurston County and the city of Tumwater does not meet the criteria which require preparation of a small business [economic] impact statement.

Hearing Location: Thurston County Courthouse, Building 1, Room 280, 2000 Lakeridge Drive S.W., Olympia, WA, on June 27, 1995, at 6:30 p.m.

Submit Written Comments to: Linda Whitcher, Washington State Department of Ecology, Shorelands and Water Resources Program, P.O. Box 47775, Olympia, WA 98504-7775, by July 7, 1995.

Date of Intended Adoption: July 18, 1995.

May 15, 1995
Mary Riveland
Director
by Terry Husseman

AMENDATORY SECTION (Amending Order 91-40, filed 10/29/91, effective 11/29/91)

WAC 173-19-420 Thurston County. Thurston County master program approved May 21, 1976. Revision approved August 27, 1976. Revision approved August 7, 1979. Revision approved September 23, 1981. Revision approved March 4, 1982. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved October 28, 1991. Revision approved July 18, 1995.

AMENDATORY SECTION (Amending Order 94-01, filed 5/4/94, effective 6/4/94)

WAC 173-19-4205 Tumwater, city of. City of Tumwater master program approved May 21, 1976. Revision approved August 30, 1984. Revision approved September 29, 1987. Revision approved May 15, 1990. Revision approved October 2, 1990. Revision approved April 17, 1991. Revision approved April 21, 1991. Revision approved November 2, 1993. Revision approved May 3, 1994. Revision approved July 18, 1995.

WSR 95-11-091
PROPOSED RULES
DEPARTMENT OF LABOR AND INDUSTRIES
[Filed May 18, 1995, 2:33 p.m.]

PROPOSED

Original Notice.

Title of Rule: Proposed amendment to WAC 296-20-135 regarding reimbursement for anesthesia services.

Purpose: To change the conversion factor used to calculate reimbursement for anesthesia services.

Statutory Authority for Adoption: RCW 51.04.020(4) and 51.04.030.

Statute Being Implemented: RCW 51.04.020(4) and 51.04.030.

Summary: To change the conversion factor used to calculate reimbursement for anesthesia services.

Reasons Supporting Proposal: The anesthesia conversion factor needs to be changed to correspond to current payment policies and to grant providers a cost-of-living adjustment.

Name of Agency Personnel Responsible for Drafting: Marilyn Gisser, Tumwater, Washington, 902-6801; Implementation and Enforcement: Mark O. Brown, Tumwater, Washington, 902-4200.

Name of Proponent: Department of Labor and Industries, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 296-20-135 establishes the conversion factor which is used to determine the amount the department will reimburse a provider for anesthesia. Currently, the conversion factor is based on a twelve minute time unit. The proposed change modifies the conversion factor to a per minute time unit, and is necessary to be consistent with current payment policy. The proposed change also adjusts the reimbursement rate to reflect a 2.16% cost-of-living adjustment, and is necessary to accommodate changes in the anesthesia payment policies and to reflect a cost-of-living increase.

Proposal Changes the Following Existing Rules: The proposal changes the dollar value of the conversion factor. The proposal also adds text to clarify where payment policies can be found.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. A SBEIS is required when the department determines that the proposed rule has the potential of placing a minor economic impact on twenty percent of all industries, or ten percent of one industry at the four-digit SIC code level. Also, according to guidelines established by the Business Assistance Center, the Regulatory Fairness Act does not require the preparation of a SBEIS if the proposed rule does not impose costs nor decrease revenue to the potentially-impacted industries. Since the proposed change will result in an overall increase to the reimbursement rates for anesthesia services, rather

than impose costs or decrease revenue to the potentially-impacted industries, the department has determined that a SBEIS is not required.

Hearing Location: Department of Labor and Industries, 7273 Linderson Way, Tumwater, WA, on July 5, 1995, at 1 p.m.

Assistance for Persons with Disabilities: Contact Marilyn Gisser by June 28, 1995, TDD (360) 902-5056, or (360) 902-6801.

Submit Written Comments to: Marilyn Gisser, FAX (360) 902-4249, by July 14, 1995.

Date of Intended Adoption: August 2, 1995.

May 18, 1995
Mark O. Brown
Director

AMENDATORY SECTION (Amending WSR 95-05-072, filed 2/15/95, effective 3/18/95)

WAC 296-20-135 Conversion factors. (1) Conversion factors are used to calculate payment levels for services reimbursed under the Washington resource based relative value scale (RBRVS), and for anesthesia services payable with base and time units.

(2) **Washington RBRVS** services rendered on or after May 1, 1995, have a conversion factor of $42.63. The fee schedules list the reimbursement levels for these services.

(3) **Anesthesia services** that are paid with base and time units have a conversion factor of ((~~$20.74~~)) $1.81 per minute. The base units ((~~are listed~~)) and payment policies can be found in the fee schedules.

(4) Services that do **not** use a conversion factor to establish reimbursement levels have dollar values, not relative values listed in the fee schedules.

WSR 95-11-101
PROPOSED RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Filed May 22, 1995, 3:22 p.m.]

Original Notice.

Title of Rule: Amending WAC 388-218-1050 Definitions and 388-218-1510 Time-loss compensation—Lien; and repealing WAC 388-218-1515 Time-loss compensation—Unmarried parents.

Purpose: WAC 388-215-1050 adds language clarifying the definition of a minor parent as seventeen years of age or younger and is the parent of a minor child living in the home. Repeal of WAC 388-218-1515 and amendment of WAC 388-218-1510 will remove the provision allowing an unmarried parent receiving L&I payment to be considered as a separate assistance unit. This provision does not comply with the mandatory filing unit rule as specified in Section 402-A (38) of the Social Security Act.

Statutory Authority for Adoption: RCW 74.08.090.

Statute Being Implemented: RCW 74.08.090.

Summary: WAC 388-218-1050 clarifies the definition of a minor parent as a person seventeen years of age or younger who is the parent of a minor child living in the home. WAC 388-218-1510 amended and WAC 388-218-1515 repealed, removes the provision allowing an unmarried parent receiving L&I payments to be considered a separate assistance unit.

Reasons Supporting Proposal: WAC 388-218-1050 clarifies language. WAC 388-218-1515 repealed and 388-218-1510 amended, complies with the mandatory filing unit rule specified in Section 402 (A)(38) of the Social Security Act.

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

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

Rule is necessary because of federal law, Section 402 (A)(38) of the Social Security Act.

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. A small business economic impact statement is not required as the rule only affects individuals receiving AFDC and has no impact on industry.

Hearing Location: OB-2 Auditorium, 14th and Jefferson, Olympia, Washington, on June 27, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Office of Vendor Services by June 13, 1995, TDD (206) 753-4542, or SCAN 234-4542.

Submit Written Comments to: Jeanette Sevedge-App, Acting 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 June 20, 1995.

Date of Intended Adoption: June 28, 1995.

May 22, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3829, filed 1/25/95, effective 2/25/95)

WAC 388-218-1050 Definitions. (1) **"Allocation"** means the process of determining the amount of income possessed by someone outside the AFDC assistance unit considered available to meet the needs of legal dependents in the assistance unit, or the process of determining the amount of income possessed by the assistance unit considered available to meet the needs of legal dependents outside the assistance unit.

(2) **"Available income"** means any income which ((~~the~~)) a client possesses and can currently use to supply all or part of ((~~his/her~~)) the clients' requirements.

(3) **"Budget month"** means the second calendar month preceding the payment month.

(4) **"Deeming"** means the process of determining the amount of an alien sponsor's income available to the alien.

(5) **"Earned income"** means income in cash or in-kind earned as wages, salary, commissions, or profit from

activities in which the client is engaged as a self-employed person or as an employee. Earned income may be derived from self-employment (such as business enterprise or farming), or derived from wages or salary received as an employee. Earned income also includes earnings over a period of time for which settlement is made at one time, for example, sale of farm crops, livestock, or poultry. Income from rentals is earned income, provided the client has managerial responsibility for the rental property.

(6) The definition of **"earned income"** includes:

(a) Earnings under Title I of the Elementary and Secondary Education Act;

(b) All earnings received under the Economic Opportunity Act;

(c) Wages from on-the-job training and work experience; and

(d) Wages paid under the Job Training Partnership Act (JTPA) and the National and Community Service Trust Act of 1993 (Americorps).

(7) The definition of **"earned income"** excludes:

(a) Returns from capital investment with respect to which the client is not actively engaged, as in a business. For example, under most circumstances, dividends and interest are excluded from "earned income."

(b) Benefits accruing as compensation or reward for service, or as compensation for lack of employment, for example, pensions and benefits from labor organizations, veterans' benefits, unemployment compensation, Social Security, etc.

(c) Income from incentive payments and training-related expenses derived from institutional or work experience training.

(d) Income received under the Job Training Partnership Act and Americorps for training allowances, payments for support services, etc.

(8) **"Earned income in-kind"** means the in-kind item is earned by work performed for another person by the client such as earning rent from a landlord, etc.

(9) **"Entitlement"** means any claim or interest, payable in cash or in-kind, a client may have in the following:

(a) Benefit;

(b) Compensation;

(c) Insurance;

(d) Pension (retirement, military, etc.);

(e) Bonus;

(f) Allotment; and

(g) Allowance, etc.

(10) **"Gross income"** means all income not specifically exempted by rule or regulation before applicable program disregards are applied.

(11) **"Income"** shall include, but is not limited to, all types of:

(a) Income from the lease or rental of real or personal property;

(b) Support from parent, stepparent, or other nonrelated adult;

(c) Interest or dividends from stocks and bonds as specified in WAC 388-218-1920 (3)(a);

(d) Wages, including garnished wages;

(e) Income from farming;

(f) Benefits and entitlements from private and public agencies, such as OASDI, veterans' agencies, and U.C.;

(g) Gifts and prizes in the form of cash or marketable securities; and

(h) Lump sum payments.

(12) **"Initial investments"** means real or personal property purchased directly with funds from an annuity fund or per capita payment up to the amount of the funds from the annuity fund or per capita payment.

(13) **"Lump sum payment"** means a nonrecurring unearned income. Lump sum payments may include, but are not limited to:

(a) Lottery, bingo, or gambling winnings;

(b) An inheritance;

(c) Personal injury award;

(d) Workers compensation awards; or

(e) Social Security back payments.

(14) **"Minor parent"** means a person who:

(a) Is seventeen years of age or younger; and

(b) Is the parent of a minor child living in the home; and

(c) Resides in the same household with an adult responsible for the minor parent's support.

(15) **"Net income"** means gross income less applicable disregards and deductions for which the client is eligible.

(16) **"Newly acquired income"** means any previously unreported or undiscovered income a client possesses or controls in whole or in part.

(17) **"Payment month"** means the calendar month for which payment is made.

(18) **"Process month"** means the calendar month between the budget month and the payment month.

(19) **"Self-produced"** means an item produced by a client, as opposed to an item purchased by a client, given to a client, or earned by a client in lieu of wages.

(20) **"Student"** means a client attending a school, college or university, or a course of vocational or technical training designed to fit the client for gainful employment. A full-time student must have a school schedule equal to a full-time curriculum. A part-time student must have a school schedule equal to at least one-half of a full-time curriculum. A student enrolled during the school term just completed and planning to return to school when school reopens shall retain status as a student during the summer vacation.

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

(22) **"Unearned income"** means income not directly resulting from a client's employment or self-employment.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1510 Time-loss compensation—Lien. (1) The department shall file a lien and notice to withhold and deliver, with labor and industries or the self-insurer, to recover time-loss compensation payable to a public assistance client, for injury or illness.

(2) The department shall mail a copy of the notice to the client no later than the following work day.

(3) By accepting public assistance, adult and minor clients shall subrogate to the department the clients' right to recover time-loss compensation.

PROPOSED

(4) The department shall compute payments for time-loss compensation and public assistance paid for less than a full month on the actual number of days paid.

(5) The department shall not make a further claim under this lien when:

(a) Duplicated benefits terminate; or

(b) Continued assistance is required to supplement time-loss compensation to bring the assistance unit up to the grant standard.

(6) When the client or client's attorney claims allowable attorney fees and costs, incidental to an increased award, the office of financial recovery, department of social and health services shall:

(a) Request an itemized billing from the attorney;

(b) Determine what portion of the award, if any, resulted directly from the attorney's involvement;

(c) Determine the department's proportionate share of attorney fees and costs applicable to the duplicate coverage period; and

(d) Deduct the department's share of cost in (c) of this subsection from the lien for duplicated assistance; or

(e) Issue the proportionate share refund to the attorney with a copy of the account summary to the client.

(7) The department shall advise a client of the provisions in this section ((~~and in WAC 388-218-1515 Time-loss compensation—Unmarried parents,~~)) when the client may be eligible for time-loss compensation.

(8) The department shall advise a client of the client's right to a fair hearing as provided in chapter 388-08 WAC.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-218-1515	Time-loss compensation—Unmarried parents.

WSR 95-11-102
PROPOSED RULES
HIGHLINE COMMUNITY COLLEGE
[Filed May 23, 1995, 8:45 a.m.]

Original Notice.

Title of Rule: Amending WAC 132I-160-110 Refunds.

Purpose: To amend WAC 132I-160-110 to reflect changes created by SSB 6002 and RCW 28B.15.600.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: RCW 34.05.310, as amended.

Summary: This section establishes the timeline for students to withdraw from courses at Highline Community College and receive a full or partial refund of fees paid.

Reasons Supporting Proposal: To be in compliance with RCW 28B.15.600.

Name of Agency Personnel Responsible for Drafting: Laura Saunders, Highline Community College, Building 1, Des Moines, Washington, (206) 878-3710; Implementation: Lorene Miller, Highline Community College, Building 6, Des Moines, Washington, (206) 878-3710; and Enforcement: Alicia Tseng, Highline Community College, Building 1, Des Moines, Washington, (206) 878-3710.

Name of Proponent: Highline Community College, public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 132I-160-110 allows tuition refunds if student meets certain time requirements for withdrawal from classes or when the college cancels a class.

Proposal Changes the Following Existing Rules: The legislature, in passage of SSB 6002, established a tuition refund standard for students attending Washington state community and technical colleges. WAC 132I-160-110 is amended to explicitly follow these standards.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This action does not affect local business, would only affect students at Highline Community College.

Hearing Location: Highline Community College, Building 25, Floor 5, Board Room, 2400 South 240th Street, Des Moines, WA 98198, on July 5, 1995, at 11:00 a.m.

Assistance for Persons with Disabilities: Contact Campus Security 878-3710 by June 30, 1995.

Submit Written Comments to: Laura Saunders, Highline Community College, P.O. Box 98000, Des Moines, WA 98198, FAX (206) 870-3754, by July 5, 1995.

Date of Intended Adoption: July 6, 1995.

May 22, 1995
Laura Saunders
Vice-President
Administration

AMENDATORY SECTION (Amending WSR 92-15-115, filed 7/21/92)

WAC 132I-160-110 Refunds. Refunds resulting from official withdrawal from courses will be computed as follows for state supported courses:

(1) One hundred percent. The refund will be one hundred percent of the amount paid if an official withdrawal form is received in the registration office or at the Highline College Federal Way ((~~center~~)) Center before the ((~~close of business on the fifth~~)) sixth ((~~calendar~~)) day of instruction of the quarter for which the fees have been paid. The deadlines vary for summer quarter courses, late-starting courses, or short courses. Deadlines are published in ((~~"The Quarterly."~~)) the quarterly class schedule.

(2) Cancelled courses. When Highline Community College cancels a course, Highline will refund the total amount paid for the course unless the student enrolls in a course to replace the cancelled course. If the new course is for fewer credits, Highline will refund the difference.

(3) ((~~Fifty~~)) Forty percent. Highline Community College will refund ((~~fifty~~)) forty percent of the total amount paid if an official withdrawal form is received in the registration office or at the Highline Community College Federal Way ((~~center~~)) Center ((~~after the fifth calendar day, but before the close of business on the 30th calendar day of the quarter~~)) on or after the sixth day of instruction, provided such withdrawal occurs within the first twenty calendar days following the beginning of instruction. The deadlines vary

for summer quarter courses, late-starting courses, or short courses. Deadlines are published in ((~~"The Quarterly."~~)) the quarterly class schedule.

(4) Summer quarter, late starting, and short courses. Refunds for these courses will be determined by the registrar.

(5) Continuing education classes. To obtain refunds for self-support courses, withdrawals must be received forty-eight hours before the first scheduled course meeting. Other refunds, except for course cancellation, will be made at the discretion of the director of continuing education.

(6) There is no refund of the ((~~twenty-five dollars~~)) nonrefundable fall quarter registration deposit to students who did not pay the total amount of their tuition and fees before the deadline. This deadline is published in ((~~"The Quarterly."~~)) the quarterly class schedule.

(7) A processing fee will be withheld from all refunds issued, except when Highline Community College cancels a course, in accordance with chapter 131-28 WAC and under regular college fiscal processes.

WSR 95-11-106
PROPOSED RULES
SPOKANE COUNTY AIR POLLUTION CONTROL AUTHORITY
[Filed May 23, 1995, 9:40 a.m.]

Original Notice.

Title of Rule: Regulation I, Article X, Fees and Charges.

Purpose: To amend existing fee schedules for registered air pollution sources, operating permit sources, and notices of construction. To add new miscellaneous fees and new definitions. To amend existing definitions and fee requirements.

Statutory Authority for Adoption: RCW 70.94.141, [70.94.]151, [70.94.]152, and [70.94.]162.

Statute Being Implemented: Chapter 70.94 RCW.

Summary: Amendment of existing fees to more accurately recover costs.

Reasons Supporting Proposal: Federal and state laws require full cost recovery of operating permit program. Other fees are being increased over the next five years until full cost recovery is attained.

Name of Agency Personnel Responsible for Drafting: Kelle Vigeland, West 1101 College, #403, Spokane, (509) 456-4727 x 106; Implementation: Barbara Nelson, West 1101 College, #403, Spokane, (509) 456-4727 x 116; and Enforcement: Mabel Caine, West 1101 College, #403, Spokane, (509) 456-4727 x 120.

Name of Proponent: Spokane County Air Pollution Control Authority, governmental.

Rule is necessary because of federal law, 42 USC; Title V, Section 502.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule authorizes Spokane County Air Pollution Control Authority to assess fees for registrations, permits, notices of construction, and other activities. The purpose and effect is to fully recover costs of operating permit program and to partially recover costs of registration, notice of construction, and other Spokane County Air Pollution Control Authority programs.

Proposal Changes the Following Existing Rules: The proposal is an amendment to adjust fees to fully recover costs, without overcollecting, for operating permit program and to adjust fees for other programs, to increase the portion of the programs' costs that are recovered through fees.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Chapter 19.85 RCW applies to agencies, departments, and instrumentalities of the state government. The Spokane County Air Pollution Control Authority is a municipal corporation pursuant to RCW 70.94.081.

Hearing Location: Spokane County Public Works Building, Hearing Room, Lower Level, West 1026 Broadway, Spokane, WA 99201, on July 6, 1995, at 9:00 a.m.

Submit Written Comments to: Kelle Vigeland, Spokane County Air Pollution Control Authority, 1101 West College, Suite 403, Spokane, 99201, FAX (509) 459-6828, by June 30, 1995.

Date of Intended Adoption: July 6, 1994 [1995].

May 22, 1995
Kelle R. Vigeland
Environmental Engineer

PROPOSED

ARTICLE X
FEES AND CHARGES

ADOPTED: September 12, 1991

REVISION: ~~September 1, 1994~~

EFFECTIVE: ~~October 6, 1994~~

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

AMENDATORY SECTION

SECTION 10.01 DEFINITIONS

When used in Regulation I of the Spokane County Air Pollution Control Authority:

A. Air Operating Permit Source means any facility required to have an operating permit pursuant to Chapter 173-401 WAC.

B. Burn Out Oven means any oven used to clean or remove dirt, grease, grime, paint, varnish, or any other unwanted substance or contaminant, from any object by using controlled incineration.

~~A~~ C. Criteria Pollutant means any one of the following: fine particulate matter (PM10), volatile organic compounds (VOC), nitrogen oxides, sulfur oxides, ozone, lead, or carbon monoxide.

~~B~~ D. Emission Fee means the component of a registration fee or operating permit fee which is based on total actual annual emissions of criteria and toxic air pollutants. In the case of a new or modified source or a source being registered initially, the emission fee is based on projected emissions as presented in an approved Notice of Construction or registration form.

~~C~~ E. Emission Reduction Credit means a credit granted to a source for a voluntary reduction in actual emissions per 173-400-131 WAC.

PROPOSED

~~D~~ F. ~~Fiscal Year has the same meaning as the term in RCW 70.94.161.~~ Registration Period means the twelve month period for which an annual fee has been assessed pursuant to Section 10.06.B.(1) or 10.06.B.(2).

~~E~~ G. Source means all of the emissions unit(s) including quantifiable fugitive emissions, that are located on one or more contiguous 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, 1972, as amended by the 1977 Supplement.

~~F~~ H. Significant Emissions means, in reference to a net emissions increase or the potential of a source to emit, any of the following pollutants, at a rate of emissions equal to or greater than any one of the following rates:

- increased emissions of 10 tons per year of any one toxic air pollutant; or,

- increased emissions of 25 tons per year of two or more toxic air pollutants; or,

Pollutant	Tons/Year
Carbon monoxide	100
Nitrogen oxides	40
Sulfur dioxide	40
Particulate Matter (PM)	25
Fine particulate matter (PM10)	15
Volatile organic compounds	40
Lead	0.6
Fluorides	3
Sulfuric Acid Mist	7
Hydrogen sulfide (H_2S)	10
Total reduced sulfur (including H_2S)	10
Reduced sulfur compounds (including (H_2S)	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

~~F~~ I. Stage I Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a transport tank into a stationary storage tank.

~~G~~ J. Stage II Vapor Recovery means the capture of gasoline vapors at gasoline dispensing facilities during the transfer of gasoline from a stationary storage tank into a motor vehicle fuel tank.

K Total Actual Annual Emissions means the total of all criteria and toxic air pollutant emissions for the most recent complete calendar year that is available to SCAPCA.

~~H~~ L. Toxic Air Pollutant means any toxic air pollutant (TAP) listed in WAC 173-460-150 ~~and~~ or 173-460-160. Toxic air pollutant does not include particulate matter ~~and~~ or volatile organic compounds as generic classes of substances.

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

SECTION 10.03 FEES OTHERWISE PROVIDED

All fees and charges provided for in this Article X are in addition to fees otherwise provided for or required to be paid by Regulation I, PROVIDED the Control Officer shall waive payment of any fee or service charge hereby required if the control officer determines that such fee is duplicative of a fee charged or required to be paid by another Article of this regulation.

AMENDATORY SECTION

SECTION 10.04 FEE WAIVER

A. Except for sources subject to the operating permit program, pursuant to RCW 70.94.161, the Control Officer may waive payment of any fee or service charge required by this Article ~~to be paid~~ upon a showing deemed sufficient by the Control Officer that payment of the fee would cause financial hardship upon the applicant.

B. The Control Officer may identify categories of sources, or groups of sources within a category, in Section 10.04.C. with similar emissions units and processes where the Control Officer determines that any of the following conditions exist:

1. Facility-wide emission rates are less than 1 ton per year of air contaminants; or

2. There are no specific regulations on the control of air contaminants; or

3. Compliance with control requirements is readily accomplished through nontechnical self-inspection techniques; or

4. The primary purpose for registration, pursuant to Article IV, is to inventory air contaminant emissions.

As categories are so identified, the Control Officer may waive one-half of the annual registration fee for owners or operators of individual facilities who provide emission inventory data, and other required information relative to compliance with applicable regulations, within 30 days of the request by the Authority, in a format acceptable to the Authority. In so doing, the owner or operator shall certify to the best of his/her knowledge, on forms provided by the Authority, that the emission inventory data is accurate and the facility is in compliance with applicable regulations. Owners or operators who fail to return the information within 30 days of the request will not qualify for a fee waiver under this Section. Notwithstanding the provision of required data by the owner or operator, the Authority reserves the right to conduct inspections of the facility.

C. The following categories of sources are eligible for the fee waiver specified in Section 10.04.B. However individual sources are not eligible if one or more Notices of Violation have been issued by the Authority, pursuant to Section 2.04 of Regulation I, to the facility in the previous 36 month period:

Source Category	Rating
Surface Coating Operations	<1 ton/yr VOC emitted

Gasoline Dispensing Facilities	Exempt from stage II vapor recovery requirements
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Natural Gas Combustion	<10^7 BTU/hr heat input
Boilers & Other Fuel Burning Equipment, With Air Contaminant Emissions Exclusively From Other Fossil Fuel Combustion	<10^6 BTU/hr heat input
Dry Cleaning Plants	<140 gal/yr solvent consumption
Waste Oil Burners	<500,000 BTU/hr heat input
Tire Recapping Facilities	All units in the category
Grain Elevators	All units with no on-site processing capability

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

AMENDATORY SECTION

SECTION 10.06 REGISTRATION AND OPERATING PERMIT FEES FOR AIR CONTAMINANT SOURCES

A. All sources required by Article IV, Section 4.01 to be registered, all sources subject to the operating permit program pursuant to RCW 70.94.161, and all sources required by Article V, Section 5.02 to obtain an approved Notice of Construction and Application for Approval shall pay an annual fee for each year, or portion of each year, during which it operates. Fees received pursuant to the registration program or the operating permit program shall not exceed the actual costs of program administration.

B. The annual fee for each source shall be determined as follows:

(1) For sources that are not subject to Section 10.06.B. (3), (4), or (5)~~, or (6)~~ of this regulation and which emit less than 5 tons per year of criteria and toxic air pollutants:

(a) a flat fee of ~~$125~~ $150; and

(b) a $30 fee for each stack and other emission point, not to exceed ~~$600~~ $300; and

(c) an emission fee of $10 per ton of each criteria and toxic air pollutant~~.~~; and

(d) an additional fee of $150 for each source which operated at least one incinerator or burn out oven during the registration period.

(2) For sources that are not subject to Section 10.06.B. (3), (4), or (5) ~~or (6)~~ of this regulation and which emit 5 tons or more per year of criteria and toxic air pollutants, but less than 100 tons per year of any one criteria pollutant~~, excluding carbon monoxide~~:

(a) a flat fee of ~~$125~~ $200; and

(b) a $30 fee for each stack and other emission point, not to exceed $300; and

(~~b~~ c) an emission fee of ~~$15~~ $10 per ton of each criteria and toxic air pollutant~~, including carbon monoxide.~~; and

(d) an additional fee of $150 for each source which operated at least one incinerator or burn out oven during the registration period.

~~(3) For sources that are not subject to Section 10.06.B. (4), or (5), and which emit 100 tons or more per year of criteria pollutants, excluding carbon monoxide, or 10 tons or more per year of a hazardous air pollutant or 25 tons or more per year of any combination of hazardous air pollutants listed pursuant to Section 112(b) of the Federal Clean Air Act (42 USC 7401 et seq):~~

~~(a) an emission fee of $20 per ton, including carbon monoxide; and~~

~~(b) share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), which shall be remitted by the Authority to the Department of Ecology. Individual shares of the assessment shall be determined pursuant to Section 10.06.E of this regulation.~~

(3) For sources subject to the air operating permit program pursuant to Chapter 173-401 WAC, a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation, plus:

(a) for bulk gasoline loading terminals, Standard Industrial Classification 5171, a fee of $11500;

(b) for secondary aluminum facilities, Standard Industrial Classification 3341, a fee of $21100;

(c) for municipal solid waste incineration facilities, Standard Industrial Classification 4953, a fee of $20400;

(d) for military bases, Standard Industrial Classification 9711, a fee of $17850; or

(e) for sources not listed in (a), (b), (c), or (d) above

i. which have total annual actual emissions of less than 50 tons, a fee of $1350;

ii. which have total annual actual emissions of greater than or equal to 50 tons but less than 100 tons, a fee of $2025; or

(iii) which have total actual annual emissions of 100 tons or greater, a fee of $3650.

~~(4) Effective July 1, 1994, for sources listed:~~

~~a. Name Of Source~~	~~WEDS Number~~	~~a fee of:~~
~~Kaiser Trentwood~~	~~K-063-0023~~	~~$15600~~
~~Waste To Energy~~	~~K-063-0097~~	~~$15100~~
~~Fairchild AFB~~	~~K-063-0025~~	~~$13200~~
~~Tosco Corporation~~	~~K-063-0006~~	~~$ 8500~~
~~Exxon Spokane Term~~	~~K-063-0002~~	~~$ 8500~~
~~Columbia Lighting~~	~~K-063-0105~~	~~$ 2700~~
~~Huntwood Industries~~	~~K-063-0106~~	~~$ 2700~~
~~Crown Pacific~~	~~K-063-0019~~	~~$ 1600~~
~~Pacific Gas Trans~~	~~K-063-0093~~	~~$ 1600~~
~~Inland Empire Paper~~	~~K-063-0092~~	~~$ 1600~~
~~Eastern Wash. Univ.~~	~~K-063-0065~~	~~$ 1600~~
~~Wash. Water Power~~	~~K-063-0086~~	~~$ 1600~~
~~U.S. Marine~~	~~K-063-0083~~	~~$ 1500~~
~~Johnson Matthey Elc~~	~~K-063-0072~~	~~$ 1000~~
~~Fiber Tech Industries~~	~~K-063-0087~~	~~$ 1000~~
~~Boeing~~	~~K-063-0095~~	~~$ 1000~~
~~Alloy Trailers~~	~~K-063-0104~~	~~$ 1000; and~~

PROPOSED

PROPOSED

~~b. a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), which shall be remitted by the Authority to the Department of Ecology. Individual shares of the assessment shall be determined pursuant to Section 10.06.E of this regulation.~~

(~~5~~ 4) For affected units under Section 404 of the Federal Clean Air Act (42 USC 7401 et seq):

(a) a fee of $50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.; and

(b) ~~a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), which shall be remitted by the Authority to the Department of Ecology. Individual shares of the assessment shall be determined pursuant to Section 10.06.E of this regulation.~~ a share of the assessment by the Department of Ecology, pursuant to RCW 70.94.162(3), determined pursuant to Section 10.06.D of this regulation.

(~~6~~ 5) For gasoline dispensing facilities which are not subject to Section 10.06.B.(3) of this regulation, a flat fee of $150.

C. ~~On or before April 7, 1994, and annually thereafter, t~~The Board of Directors shall annually review the fee schedule for sources subject to the operating permit program pursuant to RCW 70.94.161 and projected costs to implement the requirements of RCW 70.94.161 and determine if the total projected fee revenue to be collected pursuant to this Section is sufficient to recover program costs. Such review shall include opportunity for public review and comment on the projected costs and any changes to the operating permit fee schedule. Accordingly, the Authority shall account for program costs, including employee costs and overhead. If the Board of Directors determines that the total projected fee revenue is either significantly excessive or deficient for this purpose, then the Board of Directors shall amend the fee schedule to more accurately recover program costs.

~~D. After June 30, 1995, Sections 10.06.B. (3) and (4) of this regulation shall no longer be in effect and the Board shall adopt an amended fee schedule pursuant to Section 10.06.C. of this regulation. In the event that an amended fee schedule is not adopted by July 6, 1995, then the fee for sources subject to the operating permit program pursuant to RCW 70.94.161 shall be $50 per hour of time expended in carrying out the fee eligible activities specified in RCW 70.94.162 until such time as a new fee schedule is adopted. When a new fee schedule is adopted, the source shall pay a prorated fee for the year, based on the respective portions of the year during which the source was subject to the two different fee schedules.~~

~~E~~ D. Individual shares of the assessment pursuant to RCW 70.94.162(3) shall be determined by the following formula:

$$I = \frac{F_I}{F_T} \times A_E$$

Where,

I is the individual share of the assessment, and

F_I is the individual fee assessed pursuant to Section 10.06.B. (3)~~,~~ or (4)~~, or (5)~~ of this regulation, and

A_E is the total assessment pursuant to RCW 70.94.-162(3), and

F_T is the sum of all the individual fees assessed pursuant to Sections 10.06.B. (3)~~,~~ and (4)~~, and (5)~~ of this regulation.

~~F. In the event that the Authority receives delegation of the operating permit program, pursuant to RCW 70.94.161 in Fiscal Year 1995, then half of the fees collected pursuant to Sections 10.06.B. (3), (4), and (5) of this regulation shall be applied to development and implementation of the operating permit program for Fiscal Year 1995.~~

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

SECTION 10.07 APPLICATION AND PERMIT FEES FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL AND FOR NOTICE OF INTENT TO INSTALL AND OPERATE A TEMPORARY SOURCE

A. For all ~~construction~~ projects required by Article V to file a Notice of Construction and Application for Approval (NOC) or a Notice of Intent to Install and Operate a Temporary Source, a filing fee of ~~$125~~ $150 shall be paid at the time of filing the ~~NOC~~ application.

B. IN ADDITION to the filing fee provided in "A" above, a plan review and approval fee shall be paid according to one of the following:

(1) Fuel Burning Equipment With or Without Air Pollution Control Equipment:

Design Input Size (MMbtu/hr)	~~Install~~ Fee	~~Fuel Change Fee~~
.4 < 5	$ ~~100~~ 200	~~$ 20~~
5 < 10	$ ~~150~~ 250	~~$ 40~~
10 < 20	$ ~~200~~ 300	~~$ 60~~
20 < 50	$ ~~250~~ 350	~~$ 80~~
50 < 100	$ ~~350~~ 400	~~$ 100~~
100 < 250	$ 500	~~$ 150~~
250 < 500	$ 650	~~$ 200~~
500 < UP	$ 850	~~$ 250~~

(2) Refuse Burning Equipment Including Air Pollution Control Equipment:

Capacity (ton/day)	Fee
0 < 12	$ ~~500~~ 1,000
12 < 250	$ ~~1,000~~ 1,500
250 < UP	$ 2,500

(3) Process Equipment and/or Air Pollution Control Equipment or Uncontrolled Process Equipment:

Actual ft³/min	Fee
0 < 5,000	$ ~~100~~ 150
5,000 < 20,000	$ ~~200~~ 250
20,000 < 50,000	$ ~~300~~ 350
50,000 < 100,000	$ ~~400~~ 450
100,000 < 250,000	$ ~~500~~ 550

250,000	<	500,000	$ 650
500,000	<	UP	$ 800

(4) Gasoline dispensing facilities:

Equipment Being Installed	Fee
Stage I Vapor Recovery	$ 50
Stage II Vapor Recovery	$ 125
Stage I and Stage II	$ ~~125~~ 150

(5) For sources not included in (1), (2), (3), or (4) above, an hourly fee of $50.00 per hour of time expended in plan review and approval.

C. ~~For temporary portable sources required by Article V to notify the Agency of intent to operate at a new location, the filing fee shall be $125 and the plan review and approval fee shall be one half (1/2) of the current fee for a Notice of Construction and Application for Approval.~~ For sources applying for more than one emission point under one Notice of Construction application, as allowed in Section 5.02.C, the applicant shall pay one filing fee, plus a review fee for each emission unit and/or air pollution control system being installed or modified.

D. For sources seeking a change in conditions of an order of approval pursuant to Section 5.10.B. of this regulation, the fee shall be one half the current fee for a Notice of Construction and Application for Approval for that type of source or $250 which ever is less.

E. Where a compliance investigation is conducted pursuant to Section 5.12 of this regulation, the compliance investigation fee shall be equal to 2 times the fee required in Section 5.03 of this regulation.

F. IN ADDITION to the other fees and costs herein above required any new source of air pollution to be constructed and anticipated to produce SIGNIFICANT EMISSIONS shall pay an additional fee of $250.

G. IN ADDITION to the other fees and costs herein above required, any new or modified source of air pollution which requires review pursuant to Chapter 173-460 WAC shall pay an additional fee of $100.

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

SECTION 10.08 MISCELLANEOUS FEES

A. A fee of $50 per hour of time expended in review shall be paid by the applicant for each of the following:

(1) Emission reduction credit request pursuant to Chapter 173-400-131 WAC.

(2) Paving waiver request pursuant to Spokane County Zoning Code, Section 14.802.080 or City of Deer Park Code, Chapter 18.74.050.

(3) Alternate opacity limit request pursuant to RCW 70.94.331 (2)(c).

(4) Reasonably Available Control Technology (RACT) determination pursuant to Chapter 173-400-040 WAC and/or RCW 70.94.161.

(5) Variance request pursuant to SCAPCA Regulation II; Article III or RCW 70.94.181. In addition, the applicant shall pay a filing fee of $125.

(6) Voluntary limits on emissions request pursuant to Chapter 173-400-091 WAC.

(7) Stack height exemption request pursuant to Section 6.13.I.7 of this regulation.

NEW SECTION

SECTION 10.12 AGRICULTURAL BURNING FEES

A. For agricultural burning permits issued by the Authority pursuant to Section 6.11 of this regulation, a fee shall be paid by the applicant according to the following:

1. Portion for local administration: the greater of a minimum fee of $12.50 per year per farm, based on burning up to and including 10 acres or equivalent, or a variable fee of $1.25 per acre; and

2. The state administration and research portions, as provided in WAC 173-430-040 (3)(b).

B. Refunds of fees collected by the Authority may be provided at the discretion of the Authority for portions of acreage, of equivalent, unburned, provided that the total adjusted fee is no less than $25.

C. Acreage equivalency shall be in accordance with the determination of the agricultural burning practices and research task force pursuant to WAC 173-430-040 (3)(d).

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

WSR 95-11-109
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed May 23, 1995, 10:31 a.m.]

Original Notice.

Title of Rule: WAC 246-851-990 Optometry fees.

Purpose: Establish the fee for application through the national board examination.

Statutory Authority for Adoption: RCW 43.70.250.

Summary: Provides increased mobility for applicants while lowering the fee for application.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, 1300 S.E. Quince Street, Olympia, WA 98504-7863, (360) 753-4614.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Establishes a licensure application fee. The proposed fee represents a reduced fee for licensure.

Proposal Changes the Following Existing Rules: Reduces the application for licensure fee.

Hearing Location: Department of Health, 1112 S.E. Quince, Second Floor, Secretary's Conference Room, Olympia, WA 98504, fee hearing begins following teleconference call, on WAC 246-851-990 on June 28, 1995, at 12:30 - 5:00.

Assistance for Persons with Disabilities: Contact Judy Haenke by June 18, 1995, TDD (360) 753-4614.

Submit Written Comments to: Ann Foster, P.O. Box 47890, Olympia, WA 98504-7890, by June 26, 1995.

Date of Intended Adoption: June 28, 1995.

May 22, 1995
Bruce Miyahara
Secretary

AMENDATORY SECTION (Amending Order 311, filed 11/5/92, effective 12/6/92)

WAC 246-851-990 Optometry fees. The following fees shall be charged by the professional licensing division of the department of health:

Title of Fee	Fee
Application—Nonrefundable	((~~$100.00~~)) $250.00
((~~Examination/initial license~~	~~250.00~~
~~Reexamination/initial license~~	~~250.00~~
~~Credentialing by endorsement~~	~~400.00~~))
Temporary permit	50.00
Out-of-state seminar	100.00
License renewal	160.00
Late renewal	45.00
Duplicate license	15.00
Certification	25.00

WSR 95-11-110
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed May 23, 1995, 10:33 a.m.]

Original Notice.

Title of Rule: WAC 246-851-060 Examination subjects, 246-851-070 Grading examinations, 246-851-080 Examination appeal procedures, 246-851-480 Temporary permits, 246-851-490 Examination and licensure, and 246-851-500 Credentialing by endorsement.

Purpose: WAC 246-851-480 Temporary permit, amendment to change exam references from board administered exam to National Board Part III examination; WAC 246-851-490 Examination and licensure, amendment to change exam references from board administered exam to National Board Part III examination; WAC 246-851-500 Credentialing by endorsement, updates references to include relevant statutes and regulations pertaining to optometry; and the following sections are hereby repealed: WAC 246-851-060 Examination subjects, 246-851-070 Grading examinations, and 246-851-080 Examinations appeal procedures.

Statutory Authority for Adoption: RCW 18.54.070.

Statute Being Implemented: RCW 18.54.070.

Summary: Amendment and repeal of rules to designate the National Optometry Examination, Part III, as the licensing exam in Washington, replacing the board administered exam.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Judy Haenke, 1300 S.E. Quince Street, Olympia, WA 98504-7863, (360) 753-4614.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Amendment and repeal of rules to designate the National Optometry Examination, Part III, as the licensing exam in Washington, replacing the board administered exam.

Proposal Changes the Following Existing Rules: Amendment and repeal of rules to designate the National Optometry Examination, Part III, as the licensing exam in Washington, replacing the board administered exam.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Does not affect businesses.

Hearing Location: Teleconference Call, Department of Health, 1112 S.E. Quince Street, 2nd Floor, Secretary's Conference Room, Olympia, WA 98504, on June 28, 1995, at 12:30 p.m.

Assistance for Persons with Disabilities: Contact Judy Haenke by June 18, 1995, (360) 753-4614.

Submit Written Comments to: Judy Haenke, Program Manager, P.O. Box 47863, Olympia, WA 98504-7863.

Date of Intended Adoption: June 28, 1995.

May 23, 1995
Judy Haenke
Program Manager

AMENDATORY SECTION (Amending Order 248B, filed 2/26/92, effective 3/28/92)

WAC 246-851-480 Temporary permit. A temporary permit to practice optometry may be issued to an individual licensed in another state that has licensing standards substantially equivalent to those in Washington.

(1) The temporary permit may be issued upon receipt of:

(a) Documentation from the state in which the applicant is licensed indicating that the state's licensing standards are substantially equivalent to the licensing standards currently applicable in Washington state;

(b) A completed application form together with application and temporary permit fees;

(c) Verification from all states in which the applicant holds a license, whether active or inactive, indicating that the applicant is not subject to charges or disciplinary action for unprofessional conduct or impairment.

(2) The holder of a temporary permit shall take the first ((~~board~~)) National Board Part III administered examination following issuance of the temporary permit. If the holder of a temporary permit fails to apply for the first ((~~board~~)) National Board Part III administered examination following issuance of the temporary permit, the temporary permit shall expire on the next day following the application deadline. If the holder of a temporary permit takes and fails the ((~~board~~)) National Board Part III administered examination, the temporary permit shall expire upon ((~~computation~~)) reporting to the board of the examination results and shall not remain in effect during the pendency of any appeal. ((~~If the holder of a temporary permit takes and passes the board administered examination but has not met all other licensing requirements at the time the board administered examination result is computed, the temporary permit shall expire upon computation of the results of the board administered examination.~~)) If the holder of a temporary permit takes and passes the board administered examination and has met all

other licensing requirements, the temporary permit shall remain effective until the permit holder receives a permanent license.

(3) A person may ((~~hold~~)) apply for no more than one temporary permit.

AMENDATORY SECTION (Amending Order 305B, filed 9/25/92, effective 10/26/92)

WAC 246-851-490 Examination and licensure. ((~~(1)~~)) Except for a candidate seeking licensure by credential or a candidate seeking a temporary license, ((~~a candidate shall not be licensed~~)) to qualify for licensure in this state ((~~unless and until~~)) a candidate must:

((~~The candidate has successfully completed:~~

~~(a) All written parts of the International Association of Examiners in Optometry (IAB) examination in treatment and management of ocular disease;~~

~~(b) All written portions of the National Board of Examiners in Optometry (NBEO) examinations; and~~

~~(c) An examination written and administered by the board.~~

~~(2) To be eligible to take the board administered examination, a candidate shall:~~

~~(a)~~)) (1) Successfully complete Parts I, II, and III of the National Board of Examiners in Optometry (NBEO) examinations; the Part III having been administered and successfully completed after January 1, 1993;

(2) Applicants who completed the NBEO Part II examination prior to January 1, 1993, must successfully complete the International Association of Examiners in Optometry (IAB) examination in treatment and management of ocular disease; and

(3) Successfully complete a jurisprudence examination; and

(4) Be a graduate of a state accredited high school or equivalent; and

((~~(b)~~)) (5) Be a graduate of a school or college of optometry accredited by the Council on Optometric Education of the American Optometric Association and approved by the Washington state board of optometry; and

((~~(c)~~)) (6) Be of good moral character((~~; and~~

~~(d) Have no contagious or infectious disease involving serious risk to public health.~~

~~(3) Any candidate who has not successfully completed both the IAB and NBEO examination within two years of successfully completing the board administered examination will be required to reapply and retake the board administered examination~~)).

AMENDATORY SECTION (Amending Order 305B, filed 9/25/92, effective 10/26/92)

WAC 246-851-500 Credentialing by endorsement. A license to practice optometry may be issued without examination to an individual licensed in another state that has licensing standards substantially equivalent to those in Washington.

(1) The license may be issued upon receipt of:

(a) Documentation from the state in which the applicant is licensed indicating that the state's licensing standards are substantially equivalent to the licensing standards currently applicable in Washington state;

(b) A completed application form with application fees;

(c) Verification from all states in which the applicant holds a license, whether active or inactive, indicating that the applicant is not subject to charges or disciplinary action for unprofessional conduct or impairment; and

(d) Certification that the applicant has read chapters 18.53, 18.54, 18.195 and 18.130 RCW, and chapters 246-851 and 246-852 WAC.

(2) No individual who has at any time failed to successfully complete the board administered examination is eligible for credentialing by endorsement under this section.

(3) The board may require additional information as needed to determine if an applicant is eligible for credentialing by endorsement.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-851-060	Examination subjects.
WAC 246-851-070	Grading examinations.
WAC 246-851-080	Examination appeal procedures.

WSR 95-11-111
PROPOSED RULES
DEPARTMENT OF HEALTH
(Health Professions Quality Assurance Division)
(Hearing Aid Profession)
[Filed May 23, 1995, 10:36 a.m.]

Original Notice.

Title of Rule: Student supervisors, inactive status and housekeeping.

Purpose: To correct language in chapter 246-828 WAC to reflect recent legislative change of title from "Council on Hearing Aids" to "Board on Fitting and Dispensing of Hearing Aids." Housekeeping amendments correct WAC reference numbers and new sections provide clarification to RCW and department policy.

Statutory Authority for Adoption: RCW 18.35.161 (1) and (3).

Statute Being Implemented: RCW 18.35.010, [18.35.]095, [18.35.]150, [18.35.]161, and [18.35.]195.

Summary: The new student supervision section provides scope and definitions for students enrolled in accredited education or training programs. The new section on inactive status provides needed definition to RCW 18.35.095. Housekeeping changes correct terminology no longer used and incorporate department policy.

Reasons Supporting Proposal: Suggestions from the public at preliminary public meetings have been incorporated in the new sections. All of the proposed changes have been requested by either the profession at large, or the department.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Janice K. Boden, 1300 Quince, Olympia, (360) 753-3199.

Name of Proponent: Department of Health, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The agency proposes these rule revisions.

PROPOSED

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

Explanation of Rule, its Purpose, and Anticipated Effects: The housecleaning amendments will bring obsolete language up to date. The new sections will provide definition and clarification and are requested by the either department or the constituent public. The anticipated effect will be rules that are current and enforceable.

Proposal Changes the Following Existing Rules: Changes wording that is obsolete. Changes one section to wording suggested by the Department of Health to accomplish uniformity within the health care professions regulated by the department.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Changing the word "council" to "board" to reflect the new name adopted in 1993 will not effect the earnings of small businesses dispensing hearing aids. The amendments proposed are primarily housekeeping changes in nature. References to old WAC numbers and other obsolete references will be changed. Amendments to WAC 246-828-300 regarding renewal have been requested by the Department of Health. The department's purpose for making this request is to have all health profession adopt rules about the renewal process that are uniform. This amendment will not impact small businesses economically. The new section on student supervisors was requested by the managers of a new training program recently begun at a technical school. The new section has been through the public process and suggestions for revision have been incorporated into the current proposal. This new section will not impact the revenue of small businesses in the profession. The new section on inactive status has been proposed to provide needed definition to RCW 18.35.095 which provides an inactive status to licensees. This also will not impact any revenue of small hearing aid businesses.

Hearing Location: Washington School for the Deaf, 611 Grand Boulevard, S-26, Vancouver, WA 98661-4918, on August 4, 1995, at 1:30 p.m.

Assistance for Persons with Disabilities: Contact 1-800-525-9127 by July 30, 1995, TDD (360) 664-0064.

Submit Written Comments to: Ann Foster, Rules Coordinator, P.O. Box 47890, Olympia, WA 98504-7890, by August 1, 1995.

Date of Intended Adoption: August 4, 1995.

April 20, 1995
Janice K. Boden
Program Manager

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-040 Examination review and appeal procedures. (1) Each applicant who ((~~is administered~~)) takes the examination for licensure and does not pass any part of the examination ((~~will~~)) shall be provided information indicating the area of the examination in which the applicant was deficient with the notice of the examination results.

(2) Any applicant who does not pass a part of the examination may request an informal review by the ((~~council~~)) board of his or her examination results. This request must be in writing and must be received by the department within thirty days of the postmark of the notice of examination results.

(3) The procedure for the informal review is as follows:

(a) An applicant submitting a written request for an informal review by the deadline described in subsection (2) of this section ((~~will~~)) shall be contacted by the department to arrange an appointment to appear personally in the Olympia office to review the part or parts of the examination failed.

(b) The applicant ((~~will~~)) shall be provided a form to complete in the Olympia office in defense of examination answers and/or examination performance.

(c) The applicant ((~~will~~)) shall be identified only by applicant number for the purpose of this procedure. Letters of reference or requests for special consideration ((~~will~~)) shall not be read or considered by the ((~~council~~)) board.

(d) That applicant may bring textbooks or published material for use in completing the informal review, but such material must be retained by the Olympia office until the ((~~council~~)) board has completed the informal review request submitted by the applicant.

(e) The applicant ((~~will~~)) shall not be allowed to take any notes or materials from the office upon leaving.

(f) The information submitted to the ((~~council~~)) board for its consideration in the informal review must state the specific reason or reasons why the results of the examination should be changed. The ((~~council will~~)) board shall not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The ((~~council will~~)) board shall not consider a challenge to the examination unless the total revised score including the questions or sections to be reviewed could result in a passing score in the examination.

(g) The ((~~council will~~)) board shall schedule a closed session meeting to conduct the informal review of the material submitted by the applicant.

(h) The applicant ((~~will~~)) shall be notified in writing of the results of the informal review.

(4) Any applicant who is not satisfied with the result of the examination review may request that a formal hearing be held before the ((~~council~~)) board pursuant to the Administrative Procedure Act. Such a hearing request must be received by the department within thirty days of postmark of the notification of the result of the ((~~council's~~)) board's informal review of the applicant's examination results. The request must be in writing and must state the specific reasons why the results of the examination should be changed. The ((~~council will~~)) board shall not modify examination results unless the applicant can prove or show conclusive evidence of error in examination content or procedure, or bias, prejudice, or discrimination in the examination process. The ((~~council will~~)) board shall not consider a challenge to the examination unless the total revised score including the questions or sections to be reconsidered could result in a passing score in the examination.

(5) The hearing ((~~will~~)) shall not be scheduled until the applicant and the state's attorney have appeared before an administrative law judge for a prehearing conference to consider the following:

(a) The simplification of issues;

(b) The necessity of amendments to the notice of specific reasons for the examination result modification;

(c) The possibility of obtaining stipulations, admission of facts and documents;

(d) The limitation of the number of expert witnesses;

(e) A schedule for completion of all discovery; and,

(f) Such other matters as may aid in the disposition of the proceeding.

(6) The administrative law judge shall enter an order which recites the actions taken at the conference, the amendments allowed to the pleadings and the agreements made by the parties or their qualified representatives as to any of the matters considered, including the settlement or simplification of issues, and which limits the issues for hearing to those not disposed of by admissions or agreements; and such order shall control the subsequent course of the proceeding unless modified for good cause by subsequent prehearing order.

(7) Applicants ((~~will~~)) shall receive at least twenty days notice of the time and place of the formal hearing. The hearing ((~~will~~)) shall be restricted to the specific reasons the applicant has identified as the basis for a change in the examination score.

AMENDATORY SECTION (Amending WSR 94-11-108, filed 5/18/94, effective 6/18/94)

WAC 246-828-070 Trainees—Minimum standards of training. (1) The sponsor shall provide training in the following areas during the direct supervision period:

(a) Basic physics of sound;

(b) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders;

(c) Structure and function of hearing aids;

(d) Pure tone audiometry, including air conduction testing and bone conduction testing;

(e) Live voice or recorded voice speech audiometry, including speech reception, threshold testing, ((~~MCL, VCL~~)) most comfortable level, uncomfortable level, and speech discrimination testing;

(f) Effective masking;

(g) Recording and evaluation of audiograms and speech audiometry to determine hearing aid candidacy;

(h) Selection and adaptation of hearing aids and testing of hearing aids;

(i) Taking ear mold impressions;

(j) Otoscopy;

(k) Evidence of knowledge regarding the medical and rehabilitation facilities that are available for children and adults in the area served;

(l) Evidence of knowledge of grounds for revocation or suspension of license under the provisions of this chapter;

(m) Fitting verification and post-fitting follow-up.

(2) Completion of the above training and competency of the trainee to perform such duties shall be documented by initial of both trainee and sponsor on a form provided by the department. The completed training verification form shall be submitted to the department upon completion of the direct supervision period. Failure to maintain a training log or to verify training to the department shall be a violation of this chapter and may subject the sponsor to disciplinary action by the board.

(3) Trainees who have met one of the following are exempt from the minimum standards of training requirement. Documentation of the exemption shall be certified by the sponsor and submitted on a form provided by the department.

(a) Successful completion of the National Institute for Hearing Instruments Studies (NIHIS) Basic Course for Independent Study;

(b) Documentation that the trainee is either licensed in audiology in another state, or certified as an audiologist by the American Speech and Hearing Association, or holds a masters degree in audiology;

(c) Certification by the sponsor that the trainee has received the required minimum training from a previous sponsor.

(d) Successful completion of a vocational training program approved by the board.

NEW SECTION

WAC 246-828-075 Student supervisors—Scope and definitions. (1) Students enrolled in an accredited education or training program may perform the duties of a hearing aid fitter dispenser in the course of their training if under the supervision of a Washington state licensed hearing aid fitter dispenser. Supervision shall mean that the licensee is physically present on the premises at all times.

(2) An accredited education or training program shall be defined as any course of study in the field of fitting and dispensing hearing aids that is offered by a school or program recognized by the state of Washington.

(3) The student shall at all times wear an identification badge readily visible to the public which identifies him or her as a student.

(4) The licensed supervisor shall be responsible for all acts of the student.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-080 Minimum standards of equipment. Minimum equipment in the fitting and dispensing of hearing aids shall include:

(1) Access to a selection of hearing aid models, and hearing aid supplies and services sufficiently complete to accommodate the various user needs.

(2) Facilities for the personal comfort of customers.

(3) A test environment with background noise no greater than American National Standards Institute specifications (S3.1-1960 (R-1971)) plus 15 dB.

(4) Pure tone audiometer calibrated in accordance with WAC ((~~308-50-120~~)) 246-828-090.

(5) Equipment appropriate for conducting speech audiometry (testing).

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-090 Standards for equipment calibration. All electronic equipment utilized by licensees for the determination of audiometric thresholds for pure tones and

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for speech shall conform to all current standards of the American National Standards Institute (((~~at present, ANSI S3.6—1969~~))). Licensees shall insure that all such audiometric equipment has been evaluated electrically and acoustically at least once each year, adjusted or repaired if necessary, and that conformity with such standards was determined at that time. Records of such calibration shall be permanently maintained by licensees and shall be available for inspection at any time by the department. No licensee shall be permitted to certify as to the calibration of his own equipment unless authorized to do so by the department. In addition, all licensees shall utilize routine procedures for the daily inspection of audiometric equipment, or prior to use if used less often than on a daily basis, to generally determine that it is in normal working order.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-100 Minimal standards of practice. Minimum procedures in the fitting and dispensing of hearing aids shall include:

(1) Obtain case history to include the following:

(a) As required by WAC ((~~308-50-320~~)) 246-828-280, documentation of referrals, or as otherwise required by this chapter.

(b) Historical evaluation to include inquiry regarding hearing loss, onset of loss, and any associated symptoms including significant noise in the ears, vertigo, acute or chronic dizziness, nausea, earaches, or other such discomfort which may indicate the presence of medical illness. Specific inquiry should be made to determine if hearing loss has been sudden or rapidly progressive in the past ninety days, if there has been any active drainage or infection in ears during the past ninety days, and if there are any specific physical problems which may relate to the use of a hearing aid.

(2) Examination of the ears should be done to reasonably determine if any of the following conditions exist:

(a) Impacted ear wax.

(b) Foreign body within the ear canal.

(c) Discharge in the ear canal.

(d) Presence of inflammation or irritation of the ear canal.

(e) Perforation of the ear drum.

(f) Any other abnormality.

(3) Hearing testing shall be performed to include the following:

(a) Hearing loss, or residual hearing, shall be established for each ear using puretone threshold audiometry by air and bone conduction with effective masking as required.

(b) Appropriate live voice or recorded speech audiometry by ear phones to determine the following: Speech reception threshold, most comfortable level, uncomfortable level, and the speech discrimination percent.

(c) Hearing testing shall be conducted in the appropriate environment as required by WAC ((~~308-50-110~~)) 246-828-080, minimum standards of equipment, or as otherwise required by this chapter.

(d) When puretone audiometry indicates an air-bone gap of 15db or more, 500, 1000, and 2000 Hz, the presence of unilateral hearing loss, or any inconsistent audiometric findings, the client shall be advised of the potential help available through medical treatment. Should the client decline to consider such methods, or if the client has previously been appropriately treated or has been advised against such procedures, an appropriate notation shall be made in the client's record.

(e) In the event a client is referred to a licensee by an M.A. audiologist, otologist, otolaryngologist, or by a fitter/dispenser duly licensed under chapter 18.35 RCW, and the audiometric results obtained within the previous six months are provided to the licensee as a part of this referral, the applicable provisions of WAC ((~~308-50-130~~)) 246-828-100 shall not be required. However, a confirmatory audiometric examination is recommended.

(4) Medical evaluation requirements:

(a) If the prospective hearing aid user is eighteen years of age or older, the hearing aid dispenser may afford the prospective user an opportunity to waive the medical evaluation requirements of (b) of this subsection provided that the hearing aid dispenser:

(i) Informs the prospective user that the exercise of the waiver is not in the user's best health interest;

(ii) Does not in any way actively encourage the prospective user to waive such a medical evaluation;

(iii) Affords the prospective user the opportunity to sign the following statement:

I have been advised by (hearing aid fitter/dispenser name) that the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation before purchasing a hearing aid; and

(iv) Provides the prospective user with a copy of the signed waiver statement.

(b) Except as provided in (a) of this subsection, a hearing aid dispenser shall not sell a hearing aid unless the prospective user has presented to the hearing aid dispenser a written statement signed by a licensed physician that states that the patient's hearing loss has been medically evaluated and the patient may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding six months.

(5) Selection and fitting of the hearing aid shall include the following:

(a) Provide information regarding the selection of the most appropriate method and model for amplification for the needs of the client.

(b) Provide the user with the cost of the recommended aids and services.

(c) Provide for or have available an appropriate custom made ear mold.

(d) Provide final fitting of the hearing aid to ensure physical and operational comfort.

(e) Provide adequate instructions and appropriate post-fitting adjustments to ensure the most successful use of the hearing aid.

(6) Keeping records on every client to whom the licensee renders service in connection with the dispensing of a hearing aid. Such records shall be preserved for at least three years after the dispensing of the first hearing aid to the client. If other hearing aids are subsequently dispensed to that client, cumulative records must be maintained for at least three years after the latest dispensing of an aid to that client. The records must be available for the department inspection and will include:

(a) Client's case history.

(b) Source of referral and appropriate documents.

(c) Medical clearance for the hearing aid user or the waiver set forth in subsection (4)(a)(iii) of this section which has been signed after being fully informed that it is in the best health interest to seek medical evaluation.

(d) Copies of any contracts and receipts executed in connection with the fitting and dispensing of each hearing aid provided.

(e) A complete record of tests, test results, and services provided except for minor services.

(f) All correspondence specifically related to the service given the client or the hearing aid or aids dispensed to the client.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-120 Unfair or deceptive practices, unethical conduct and unfair methods of competition—Misrepresenting products, services, personnel or material facts. It shall be an unfair or deceptive practice, unethical conduct or unfair method of competition for a licensee to misrepresent:

(1) The grade, quality, quantity, origin, novelty, price, cost, terms of sale, use, construction, size, composition, dimensions, type, design, development, visibility, durability, performance, fit, appearance, efficacy, benefits, cost of operation, resistance to climatic conditions, or physiological benefits of any hearing aid or the psychological well-being induced by a hearing aid;

(2) Any service or adjustment offered, promised, or to be supplied to purchasers of any hearing aid;

(3) Any material fact pertaining to the manufacture, distribution or marketing of any hearing aid; or

(4) The scientific or technical knowledge, training, experience or other qualifications of a licensee, or of his employees, relating to the selection, fitting, adjustment, maintenance or repair of industry products;

(5) Misrepresent shall mean making misleading, deceiving, improbable or untruthful representations or in any other material respect, the character, extent or type of his/her business except as provided in WAC ((~~308-50-170~~)) 246-828-140.

(6) The reparability, including the cost thereof, or the adequacy of a prospective purchaser's own hearing aid(s) or ancillary equipment.

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WAC 246-828-295 Inactive status license. An inactive license shall be issued to a currently licensed fitter and dispenser at the time of his or her annual renewal upon the department's receipt of the licensee's written request and payment of the inactive license fee. An inactive license may be returned to active status upon written request of the licensee in accordance with RCW 18.35.095. An inactive license shall be renewed annually on the licensee's birthdate by submitting to the department the inactive status fee.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-300 ((~~Renewal of license.~~)) Licensure renewal, late penalty, reexamination required. ((~~The annual license renewal date for hearing aid fitters and dispensers is the licensee's birthdate. Individuals making application for examination and initial license, provided they meet all such requirements, will be issued a license to expire on their next birth anniversary date.~~)) (1) A license shall be renewed annually on or before the licensee's birthdate. An initial license shall expire on the licensee's next birthdate. Unless otherwise specified in statute, the secretary may prorate the renewal fee based on 1/12 of the annual renewal fee for each full calendar month between the initial issue date and the next anniversary of the applicant's birthdate.

(2) A licensee may renew his/her license at the annual renewal rate, for one year. Any renewal that is postmarked or presented to the department after midnight on the expiration date is late, and subject to a late renewal penalty fee.

(3) Failure to timely renew a license shall invalidate the license and all privileges granted by the license. Any licensee subject to the Uniform Disciplinary Act who submits a late renewal which is postmarked or presented to the department more than thirty days after its expiration date, shall be subject to investigation for unprofessional conduct in accordance with RCW 18.130.180(7) for unlicensed practice.

(4) Late renewal penalty fees, reinstatement of licensure. A license holder who fails to renew his or her license on or before its expiration date may be issued a license to practice during the first three years that the license has been allowed to lapse. The licensee shall remit to the department a completed reinstatement application, late penalty fee, all back annual renewal fees, and proof of completion of the continuing education requirement for the time the license was lapsed. Late renewal penalty fees shall be based on the following formula:

If the annual renewal	The late renewal penalty fee is:
From $1 to $50	100% of the renewal fee
From $51 to $100	$50 flat fee
$101 or more	50% of the renewal fee, but no more than $300

(5) If a licensee has allowed his or her license to lapse for more than three years the licensee shall, before the license may be reinstated to active status, satisfactorily complete all portions of the licensing examination and pay the applicable examination and licensing fees.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-320 Minimum standards for fitting and dispensing locations. (1) The hours of business of each hearing aid establishment shall be prominently and continuously displayed and visible to the public at each regular place or places of business owned or operated by that establishment.

(2) All such regular place or places of business or any activities emanating therefrom shall meet the minimum standards for facilities and equipment essential for the testing

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of hearing and the fitting and dispensing of hearing aids as set forth in WAC ((~~308-50-110~~)) 246-828-080.

(3) The term "place or places of business" means a location where a licensee engages or intends to engage in the fitting and dispensing of hearing aids at a permanent address(es) open to the public on a regular basis.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-360 Procedure for declaratory ruling. (1) In accord with RCW ((~~34.04.080~~)) 34.05.240, on petition of any interested person, the ((~~council~~)) board may issue a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by it.

(2) Such interested person shall submit the petition for declaratory ruling in written form to the ((~~council's~~)) board's departmental staff.

(3) The petition shall set forth, at a minimum, the following:

(a) The name of the person(s) seeking the ruling,

(b) The person's or persons' interest in the subject matter of the petition,

(c) The rule or statute at issue,

(d) A concise statement of the facts at issue, and

(e) A statement by the petitioner that he or she understands that he or she waives any possible objections to the ((~~council's~~)) board's fitness to hear the same matter as a disciplinary case should the ((~~council~~)) board decline to issue a declaratory ruling or should the ((~~council~~)) board issue a ruling contrary to the petitioner(s) argument and the facts otherwise warrant prosecution.

(4) The ((~~council~~)) board shall make the preliminary decision whether or not to accept the petition at the first meeting subsequent to the department's receipt of the request or as soon thereafter as reasonably possible.

(5) If the ((~~council~~)) board accepts the petition, the matter may be referred to committee, but shall ultimately be decided by a quorum of the ((~~council~~)) board.

(6) The party or parties to the petition may request leave to present argument which may or may not be heard at the discretion of the ((~~council~~)) board.

(7) The ruling shall be binding, pursuant to RCW ((~~34.04.080~~)) 34.05.240, if issued after argument and stated to be binding between the ((~~council~~)) board and the petitioner.

AMENDATORY SECTION (Amending Order 165B, filed 5/8/91, effective 6/8/91)

WAC 246-828-370 AIDS prevention and information education requirements. (1) Definitions.

(a) "Acquired immunodeficiency syndrome" or "AIDS" means the clinical syndrome of HIV-related illness as defined by the board of health by rule.

(b) "Office on AIDS" means that section within the department of social and health services or any successor department with jurisdiction over public health matters as defined in chapter 70.24 RCW.

(2) Application for licensure. Effective July 1, 1989, persons who submit an application for a license to fit/dispense hearing aids or who submit an application for a trainee permit shall submit, prior to being granted a license and in addition to the other requirements for licensure, evidence to show compliance with the educational requirements of subsection (4) of this section.

(3) Renewal of licenses. Effective with the renewal period beginning July 1, 1989, and ending June 30, 1990, all persons making application of licensure renewal shall submit, in addition to the other requirements, evidence to show compliance with the education requirements of subsection (4) of this section.

(4) AIDS education and training.

(a) Acceptable education and training. The ((~~council~~)) board will accept education and training that is consistent with the topical outline available from the office on AIDS. Such education and training shall be a minimum of four clock hours regarding the prevention, transmission and treatment of AIDS, and may include, but is not limited to, the following: Etiology and epidemiology; testing and counseling; infection control guidelines; clinical manifestations and treatment; legal and ethical issues to include confidentiality; and psychosocial issues to include special population considerations.

(b) Implementation. Effective July 1, 1989, the requirement for licensure, renewal, or reinstatement of any license on lapsed, inactive, or disciplinary status shall include completion of AIDS education and training. All persons affected by this section shall show evidence of completion of an education and training program, which meets the requirements of (a) of this subsection ((~~(a)~~)).

(c) Documentation. The licensee or applicant for licensure shall:

(i) Certify, on forms provided, that the minimum education and training has been completed after January 1, 1987;

(ii) Keep records for two years documenting attendance and description of the learning;

(iii) Be prepared to validate, through submission of these records, that attendance has taken place.

AMENDATORY SECTION (Amending Order 341B, filed 3/5/93, effective 4/5/93)

WAC 246-828-400 Temporary practice permits—Scope and purpose. The temporary practice permit is established to enable safe, qualified, and trained hearing aid fitter dispensers who are currently licensed in another state as defined in WAC 246-828-410 to work in the state of Washington prior to completing the examinations administered by the ((~~hearing aid council~~)) board. All licensing requirements established for obtaining a fitter dispenser license ((~~will need to~~)) shall be completed as part of the application for a temporary practice permit.

AMENDATORY SECTION (Amending Order 341B, filed 3/5/93, effective 4/5/93)

WAC 246-828-410 Definitions. For the purpose of issuing temporary practice permits the following definitions shall apply:

(1) "Licensed in another state" means the applicant holds a current valid license, registration, or certification to practice the fitting and dispensing of hearing aids in another state and is in good standing.

(2) "Substantially equivalent" means the applicant has successfully completed an examination administered by or authorized by a state other than Washington state. The examination shall measure basic knowledge of the fitting and dispensing of hearing aids and comply with the requirements as listed in RCW 18.35.070 and WAC 246-828-020, as determined by the ((~~council~~)) board.

AMENDATORY SECTION (Amending Order 342B, filed 3/5/93, effective 4/5/93)

WAC 246-828-530 Exceptions. The following is an exception from the continuing education requirements. Upon a showing of good cause by a licensee to the secretary, the secretary, with advice from the ((~~council~~)) board, may exempt such licensee from any, all, or part of the continuing education requirement. Good cause includes, but is not limited to, severe illness.

AMENDATORY SECTION (Amending Order 342B, filed 3/5/93, effective 4/5/93)

WAC 246-828-550 Programs approved by the ((~~council~~)) board on fitting and dispensing of hearing aids. Completion of the following are deemed to qualify an individual for continuing education credit:

(1) Attendance at a continuing education program having a featured speaker(s) or panel which has been approved by an industry-recognized local, state, national, or international organization.

(2) Participation as a speaker or panel member in a continuing education program which has been approved by an industry-recognized local, state, national, or international organization. A maximum of two hours of such participation may be applied towards the total ten hours required.

(3) Completion as a student, of a written, video, or audio continuing education program which has been approved by an industry-recognized local, state, national, or international organization. Only such programs which have accompanying required tests of comprehension upon completion and are independently graded shall be accepted.

AMENDATORY SECTION (Amending Order 342B, filed 3/5/93, effective 4/5/93)

WAC 246-828-560 Certification of compliance. (1) In conjunction with the application for renewal of licensure at the end of each one-year period as provided for in WAC 246-828-520, each licensee shall submit an affidavit of compliance on a form supplied by the secretary indicating the ten hours of continuing education completed by the licensee in the previous twelve months.

(2) The secretary, with recommendations of the ((~~council~~)) board, reserves the right to require any licensee to submit evidence, e.g., course or program certificate of training, transcript, evidence of attendance, etc., in addition to the affidavit form in order to demonstrate compliance with the continuing education requirement. It is, therefore, the responsibility of each licensee to maintain records, certificates, or other evidence of compliance with the continuing education requirements.

AMENDATORY SECTION (Amending WSR 94-08-038, filed 3/31/94, effective 5/1/94)

WAC 246-828-990 Hearing aid fitter/dispenser fees. The following fees shall be charged by the ((~~professional licensing [division] [services]~~)) health professions quality assurance division of the department of health:

Title of Fee	Fee
Trainee:	
Initial application	$200.00
Trainee transfer of sponsor—Within fifteen days	50.00
Trainee transfer of sponsor—Over fifteen days	100.00
Extension of trainee license	100.00
Fitter/dispenser:	
Examination or reexamination (full)	((~~$~~))350.00
Partial reexamination	200.00
Initial license	175.00
Renewal	340.00
Late renewal penalty	272.00
Duplicate license	15.00
Certification	15.00
Temporary practice permit	175.00
Inactive Status and renewal	175.00

WSR 95-11-113
PROPOSED RULES
DEPARTMENT OF ECOLOGY
[Filed May 23, 1995, 3:23 p.m.]

Original Notice.

Title of Rule: Dangerous waste regulations, chapter 173-303 WAC.

Purpose: To update the regulations by incorporating federal requirements and amending several state-only requirements.

Statutory Authority for Adoption: Chapters 70.105 and 70.105D RCW.

Statute Being Implemented: Chapter 70.105 RCW.

Summary: Several federal requirements are proposed, including drip pad standards for wood treaters, organic air emission standards, and LDR universal treatment standards. Additionally, several changes are proposed to the state-only requirements as a result of the dangerous waste regulatory reform project.

Reasons Supporting Proposal: Washington is authorized to implement the federal hazardous waste program in lieu of EPA. As an authorized state, new federal requirements must be incorporated periodically. Proposed amendments to the state-only requirements reflect changes that have occurred during the last sixteen years in areas such as solid waste landfill standards, testing methods, and in the federal hazardous waste program.

Name of Agency Personnel Responsible for Drafting: Patricia Hervieux, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6756; Implementation and Enforcement: Megan White, P.O. Box 47600, Olympia, WA 98504-7600, (360) 407-6218.

Name of Proponent: Department of Ecology, Hazardous Waste and Toxics Reduction Program, governmental.

Rule is necessary because of federal law, 40 CFR.

40 CFR Sections Adopted/Amended in 1988: 261.33(f), Appendix VIII to Part 261, 261.33(e).

40 CFR Sections Adopted/Amended in 1990: 261.31, Appendix III to Part 261, Appendix VII to Part 261, 264.221(c), 264.301(c), 260.11(a), 261.6 (c)(1), 261.6 (c)(2)(iii), 261.6(d), 264.13 (b)(6), 264.15 (b)(4), 264.73 (b)(3), 264.73 (b)(6), 264.77(c), Subpart AA 264, Subpart BB 264, 265.13 (b)(6), 265.15 (b)(4), 265.73 (b)(3), 265.73 (b)(6), 265.77(d), Subpart AA 265, Subpart BB 265, 270.14 (b)(5), 270.14 (b)(8)(iv), 270.14 (b)(8)(v), 270.14 (b)(8)(vi), 270.24 through 270.24 (d)(5), 270.25 through 270.25 (e)(5), 261.31(a) through 261.31 (b)(3)(ii)(B), Appendix VII to Part 261, 260.10, 261.4 (a)(9), 261.31(a), 261.35(a) through 261.35 (c)(12), 261.35 (d)(12), Appendix III to Part 261, Appendix VII to Part 261, Appendix VIII to Part 261, 262.34 (a)(2), 262.34 (a)(2)(i), 262.34 (a)(2)(ii), 262.34 (a)(3), 262.34 (a)(4), 262.34 (a)(5), 264.190, 264.190(c), Subpart W 265, 265.190, 265.190(c), 265.440(a), 265.440(b), 265.441(a), 265.441(b), 265.441 (b)(1), 265.441 (b)(2), 265.441 (b)(3), 265.441(c), 265.441(d), 265.442, 265.443(a) through 265.443(n), 265.444(a) through 265.444 (b)(3), 265.445(a) through 265.445 (c)(2), 270.26, 270.22(a) through 270.22 (c)(16).

40 CFR Sections Adopted/Amended in 1991: 261.3 (d)(1), 261.20(b), 261.31(a), 262.11(c), 262.34 (d)(4), 268.2(d) through 268.2 (g)(1)(7), 268.7(a) through 268.7 (4)(ii), 268.9(a), 268.9 (d)(1)(ii), 268.33(b), 268.35(a) through 268.35(e), 268.40(a), 268.41(a), 268.42 (a)(2) through 268.42(a) Table 3, 268.43(a)/Table CCW, 268.43(c) through 268.43 (c)(3), Appendix IV to Part 268, Appendix V to Part 268, Appendix VII/Table 1 to Part 268, Appendix VII/Table 2 to Part 268, Appendix VIII to Part 268, Appendix IX to Part 268, 270.42/Appendix I, 261.33(e), Appendix VIII to Part 261, 264.1030(a), 264.1030(b), 264.1033 (f)(3), 264.1035 (b)(4)(ii), 264.1052 (b)(1), 265.13 (b)(6), 265.73 (b)(3), 265.1030(b), 265.1034 (c)(1)(vi), 265.1035 (b)(4)(ii), 265.1035 (c)(5), 265.1052 (e)(3), 265.1064(c), 270.24 (d)(2), 270.25 (e)(2), 261.31(a), 261.4 (a)(9)(i), 261.4 (a)(9)(ii), 261.35(b) through 261.35 (b)(4)(i), 262.34 (a)(1) through 262.34 (a)(4), 264.570(a), 264.570(b), 264.571(a) through 264.571(d), 264.572, 264.573 through 264.573 (m)(3), 264.574, 264.574(a), 264.575 through 264.575 (c)(1), 264.440(a), 265.443 (b)(2)(ii) through 265.443 (m)(3), 270.26 through 270.26 (c)(16), 261.3 (c)(2)(ii)(C), 261.4 (a)(11), 268.41(a)/Table CCWE, 268.41(b), 262.53(b), 262.56(b), 265.91 (a)(3) through 265.91 (a)(3)(iv), 264.141(h), 264.143 (f)(10), 264.145 (f)(11), 264.147(a) through 264.147(k), 264.151(b) through 264.151 (n)(2), 265.141(h), 265.143 (e)(10), 265.145 (e)(11), 265.147(a) through 265.147(k), 270.42, Appendix I, L.

40 CFR Section Adopted/Amended 1992: 260.10, 264.15 (b)(4), 264.19(a) through 264.19(d), 264.73 (b)(6), 264.221(c) through 264.221 (g)(i), 264.222(a), 264.222(b), 264.223(a) through 264.223 (c)(2), 264.226 (d)(1) through 264.226 (d)(3), 264.228 (b)(2) through 264.228 (b)(4), 264.251(c) through 264.251 (g)(k), 264.252(a), 264.252(b), 264.253(a) through 264.253 (c)(2), 264.254(c), 264.301(c) through 264.301 (g)(l), 264.302(a), 264.302(b), 264.303 (c)(1) through 264.303 (c)(3), 264.304(a) through 264.304 (c)(2), 254.310 [264.310] (b)(3), 264.310 (b)(4)(6), 265.15 (b)(4), 265.19(a) through 265.19(d), 265.73(6), 265.221(a) through 265.221(g), 265.222(a) through 265.222(c), 265.223(a) through 265.223 (c)(2), 265.226 (b)(l) through 265.226 (b)(3), 265.228 (b)(2) through 265.228 (b)(4), 265.254, 265.255(a) through 265.255(c), 265.259(a) through 265.259 (c)(2), 265.260, 265.301(a) through 265.301 (f)(i), 265.302(a) through 265.302(d), 265.303(a) through 265.303 (c)(2), 265.304(a) through 265.304(c), 265.310 (b)(2), 265.310 (b)(3)(5), 270.4(a) through 270.4 (a)(3), 270.17(b) through 270.17(c), 270.18(c) through 270.18(d), 270.21(b) through 270.21(d), 270.42/Appendix I, 264.13 (a)(1), 264.3(b), 268.41(a), 268.42(a)/Table 2, 268.35(e), 268.35(c), 268.35(k), 260.10, 261.3 (a)(2)(iii) through 261.3 (f)(2), 262.34 (a)(1)(iii) through 262.34 (a)(2), 264.110 (b)(1) through 264.110 (b)(4), 264.111(c), 264.112 (a)(2), 264.140 (b)(1) through 264.140 (b)(4), 264.142(a), 264.1100 through 264.1100(e), 264.1101(a) through 264.1101 (a)(3), 268.36(i), 268.40(b), 268.40(d), 268.36(d) through 268.36 (h)(4), 268.14(c), 268.36(a) through 268.36(c), 268.9 (d)(1)(iii), 268.9 (d)(2), 268.14(a), 268.14(b), 268.7 (d)(1) through 268.7 (d)(3)(iii), 268.9(d) through 268.9 (d)(1)(ii), 268.7 (a)(4) through 268.7 (a)(3)(vi), 268.5 (h)(2)(ii) through 268.5 (h)(2)(vi), 268.7 (a)(1)(iii), 265.1102(a), 265.1102(b), 265.1103-265.1110 (reserved), 268.2(g), 268.2(h), 265.1101(d) through 265.1101 (a)(2)(ii), 265.1100(a) through 265.1100(d), 265.221(h), 265.1100, 265.140(b) through 265.140 (b)(3), 265.142(a), 265.110 (b)(1) through 265.110 (b)(4), 265.111(c), 265.112 (d)(4), 264.1101 (d)(3), 264.1101(e), 264.1102(a), 264.1102(b), 264.1103-264.1110 (reserved), 264.1101 (c)(3)(iii) through 264.1101 (b)(2)(ii), 268.41(a), 268.41(a)/Table CCWE, 268.41(c), 268.42/Table 2, 268.42(b), 268.42(d), 268.43/Table CCW, 268.45(a) through 268.45/Table 1, 268.50 (a)(1), 268.50 (a)(2), Appendix II to Part 268, 270.13(n), 270.14 (b)(2), 270.42 (e)(3)(ii)(B), 270.42 Appendix I(6), 270.42 Appendix I,M, 270.72 (b)(6), 261.32, Appendix VII to Part 261, 268.35(c) through 268.35 (e)(2), 260.10, 264.13 (c)(3), 264.314 (a)(2) through 264.314 (f)(2), 264.316(b), 264.316(c), 265.13 (c)(3), 265.314 (a)(2) through 265.314 (g)(2), 265.316(b), 265.316(c), Appendix II, 8.2 through Appendix II 8.5 to Part 261, 261.31(a)/Table, 264.570(a) through 264.570 (c)(1)(iv), 264.571(a) through 264.571 (b)(3), 264.572 through 264.572(b), 264.573 (a)(4)(i) through 264.573(i), 265.440(a) through 265.440 (c)(1)(iv), 265.441(a) through 265.441 (b)(3), 265.442 through 265.442(b), 265.443 (a)(4)(i) through 265.443(i).

40 CFR Section Adopted/Amended 1993: 268.35 (e)(1) through 268.35 (e)(5)(ii)(H), 264.1 (g)(6), 265.1 (c)(10), 268.1 (e)(4), 268.1 (e)(5), 268.2(i), 268.7(a) through 268.7 (b)(4)(ii), 268.9(a), 268.37(a), 268.37(b), 268.40(b), 268.41(a) Table CCWE, 268.42(a) Table 2, 268.43(a) Table CCW, 270.42 Appendix I.

40 CFR Sections Adopted/Amended 1994: 261.4(e), 261.4(f).

40 CFR Sections Adopted/Amended 1995: 268.2, 268.7, 268.9, 268.40.

Explanation of Rule, its Purpose, and Anticipated Effects: The dangerous waste regulations set forth the requirements for determining whether or not solid wastes are dangerous wastes, establish a system for tracking dangerous waste from generation to treatment or disposal, and establish

requirements for facilities that manage dangerous waste so that all dangerous wastes are managed safely and responsibly in Washington state.

Proposal Changes the Following Existing Rules: **Special waste definition. WAC 173-303-040**, special waste standards and a definition for special waste were developed in 1984 so that relatively lower hazard state-only solid waste (nonliquid, nonaqueous, nongaseous) could be managed with fewer management requirements than other dangerous wastes. The current definition includes solid dangerous waste that is persistent, toxic (Category D toxicity), or corrosive, provided it is not EHW. With this rule revision, ecology proposes to amend the special waste definition to exclude toxic waste with toxicity from 0 to 500 mg/Kg oral rat (this waste would be regulated as dangerous waste), and expand the definition to allow low level PCB contaminated solid waste to be included as special waste.

Ecology is proposing to allow management of special waste in municipal solid waste landfills. Under the present rule, small quantities of relatively toxic waste are categorized as dangerous waste (as opposed to extremely hazardous waste) and these wastes should not be allowed to be managed in solid waste landfills. Therefore, ecology is proposing to exclude this relatively toxic waste from the definition of special waste. The result is that under the proposed revision to the definition, the toxicity of special waste can be adequately controlled by solid waste facilities.

Ecology proposes expanding the definition of special waste to include solid material with W001 listed wastes (PCBs). This addition consists mostly of PCB contaminated materials when the source of the PCBs is salvaged, discarded, or rebuilt transformers, capacitors, and bushings. Ecology's annual report information and experience indicate that the greatest quantity of this type of special waste will be contaminated media with PCB concentrations of less than 5 ppm.

Broadening the special waste definition makes disposal of low level, solid PCB contaminated materials from the three activities and sources defining the W001 listing more consistent with the disposal standards of low-level PCBs from other sources and activities. Low level PCBs from sources other than transformers, capacitors, and bushings are currently disposed in solid waste landfills.

Waste PCBs with PCB concentrations greater than 50 ppm will continue to be regulated under 40 CFR Part 761 (TSCA). PCB contaminated oil will continue to be regulated to detection levels in accordance with 40 CFR Part 761, under the W001 listing in the dangerous waste regulations, and in accordance with the proposed used oil management standards of chapter 173-354 WAC.

Accumulation limit. WAC 173-303-070(8), ecology is proposing to increase the accumulation limit for small quantity generators (SQGs) from 220 pounds (about one half drum) to the federal accumulation limit of 2200 pounds (about four drums). There are many SQGs who generate very small quantities of waste on a monthly basis, but it is difficult for them to get those wastes off-site before they have accumulated more than 220 pounds. This difficulty derives from (1) a lack of local SQG waste collection programs, or (2) refusal by commercial waste handlers to pick up the small volumes of waste.

It is ecology's intent to increase the quantity of waste that may be accumulated on-site by small quantity generators for the purpose of encouraging the use of facilities that recycle, treat, or dispose of dangerous waste. Larger volumes of waste will put SQGs in a better position to contract services for their waste and will make using commercial waste management services more cost effective. Small quantity generators should not use the increase in accumulation to send larger shipments of dangerous waste to local solid waste landfills.

It should be noted that SQGs may not accumulate 2200 lbs. of federal "acute hazardous waste." Some acute hazardous waste may be accumulated up to 2.2 lbs., and the rest up to 220 lbs. Generators should refer to WAC 173-303-081 and 173-303-082 to ensure that they properly identify acute hazardous waste. The proper identification of acute hazardous waste is important in order to distinguish which SQG wastes qualify for the higher accumulation limit. All generators are responsible for proper identification of acute hazardous waste as a part of the waste designation process described at WAC 173-303-070.

In order to ensure that the increase in accumulation limit does not pose an increased risk to human health and the environment, small quantity generators must manage their waste in a way that does not pose a potential threat to human health or the environment. Ecology recommends that small quantity generators follow practices such as those described at WAC 173-303-070 (8)(c). Ecology believes that these represent best management practices. At WAC 173-303-070 (8)(c)(ii), Identification of containers, the information may be handwritten on the containers. Also, SQGs may use other systems to identify the major risks of the waste such as the National Fire Protection Association "704" labels and the Department of Transportation labeling requirements.

Exclusions. WAC 173-303-071 (3)(w), spent wood preserving solutions exclusion, EPA recognized that certain wastes from wood preserving and surface protection are reclaimed and then returned to the wood preserving process for reuse. The process of reclaiming is such that the materials are not typically reused directly; recycling does not take place in a "closed-loop system." EPA did not intend to regulate reclaimed spent preservative and products made with reclaimed spent preservatives, therefore the exclusion was written. Ecology agrees with EPA's rationale for the exclusion, and that it is appropriate to exclude the reclaimed spent preservatives. There would be no environmental benefit from regulating these wastes that are reclaimed and returned to the process.

WAC 173-303-071 (3)(x), nonwastewater splash condenser dross residue, EPA adopted this exclusion when it finalized treatment standards for land disposal restrictions for a subcategory of K061, nonwastewaters that contain at least 15% total zinc. In evaluating how this waste stream was commonly managed, EPA noted that the SCDR is collected directly from the splash condenser and drummed. It is then stored for short periods (not exceeding two weeks) and sold to thermal zinc processing facilities where it is used as a source of zinc, or reused on-site in the HTMR process, or reprocessed on-site (the SCDR normally contains 50-60% zinc). The drums are stored indoors in a secure manner and the material is processed for recovery by crushing, and in

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combination with other feedstocks, grinding and by thermal recovery of zinc. The waste stream is small in volume, does not exhibit a characteristic of hazardous waste, and most of the toxic metals that originate in K061 are not in the dross (a solidified matrix). The SCDR is excluded when it is utilized as a source of zinc in zinc recovery operations. EPA requires the HTMR facility to maintain a one-time notice in its operating record stating that the SCDR is generated, then excluded, and what its disposition is. Ecology agrees with EPA's rationale that this waste will be carefully managed prior to recovery of the zinc under this conditional exclusion and will not present a threat to human health or the environment. Also, this is not a high volume waste in Washington.

WAC 173-303-071 (3)(y), ecology considered adopting the federal exclusion for used oil filters that have been gravity hot-drained. However, many people expressed concern that such an exclusion would appear to be an endorsement by ecology of sending oil filters to solid waste landfills. When filters are sent to the landfill, both the metal value of the filter is lost, and used oil that has not been properly drained from the filter gets into the landfills. In 1991, the legislature determined that "The department, when appropriate, should promote the re-refining of used oil in its grants, public education, regulatory, and other programs." Ecology wants to encourage recycling; when used oil filters and the oil from the filters are recycled, they are excluded from the dangerous waste regulations. This recycling option has existed for some time; however, in order to let generators know that this option exists, it is being formalized as an exclusion. To further promote safe management of used oil (and filters), ecology proposed chapter 173-354 WAC, Used oil management standards. WAC 173-354-700 contains management standards for draining and crushing of used oil filters.

WAC 173-303-071 (3)(z), used oil re-refining distillation bottoms, when EPA proposed this rule commenters submitted information to EPA which indicated that distillation bottoms from re-refining processes did not exhibit the toxicity characteristic and EPA had no data which refuted the claim. It has been a common practice to use the distillation bottoms as ingredients in asphalt paving and roofing materials. Therefore, EPA saw no reason to prohibit or restrict the use of re-refining distillation bottoms in the production of asphalt materials and therefore excluded used oil residuals. Ecology agrees with EPA's rationale for this exclusion.

WAC 173-303-071 (3)(cc), trivalent chromium exclusion, when EPA listed chromium-bearing waste streams, they determined that it was inappropriate to regulate certain trivalent chromium-bearing wastes because they were not likely to create a substantial present or potential hazard to human health or the environment when mismanaged. When ecology first adopted the exclusion, a petition from the generator was required to ensure that generators were properly characterizing their waste. Few petitions were submitted as there is not much of this waste generated in Washington. This proposal removes the requirement for the generator to submit a petition so that this exclusion will be self-implementing (as the other exclusions are).

Special waste exclusion. WAC 173-303-073, in 1984, ecology recognized that some solid, state-only dangerous wastes posed less hazard to human health and the environment than other dangerous wastes. Management standards for these special wastes were added to the rule. After meeting certain requirements, a dangerous waste facility could apply fewer management standards to special wastes (WAC 173-303-550 and 173-303-560), and options were added for generators of special waste at WAC 173-303-170(4). Ecology intended to allow management standards intermediate between solid and hazardous waste for these lower hazard dangerous wastes. In practice, no dangerous waste facilities have implemented the existing special waste provisions because most special waste generated in Washington is disposed of out of state.

The proposed revision creates tailored management standards that reflect the lower hazard of special waste, relative to other dangerous waste. In addition, the proposed revisions will result in a regulation that is more implementable than the existing special waste rule because it provides generators with disposal options within Washington state thereby implementing the "close to home" policy of the hazardous waste state plan.

With this proposal, ecology is creating a new section in the dangerous waste regulations which will redefine management standards for special waste and prescribe a specific disposal standard, municipal solid waste landfills permitted in accordance with chapter 173-351 WAC. Disposal facilities with protective design standards and comprehensive monitoring requirements did not exist when the special waste rule was first developed in 1984. The new standards make it possible to safely manage these wastes without using a hazardous waste facility.

The following is a discussion regarding changes to the referenced sections of the regulations. WAC 173-303-073(2), as with excluded dangerous wastes in WAC 173-303-071, special wastes are not exempt from the requirements of WAC 173-303-050, 173-303-145, and 173-303-960. These sections address cleanup authorities, spills and discharges, and special powers and authorities of the department, respectively. In addition, special waste is not exempt from the pollution prevention planning and fee requirements of chapters 173-307 and 173-305 WAC and the notification and annual reporting requirements of WAC 173-303-060.

Ecology believes that it is reasonable to require pollution prevention planning for special waste because special waste represents a significant portion of the dangerous waste stream and the exclusion allows this waste to be disposed of in new municipal solid waste landfills. This will reduce the management cost for special waste, therefore, some of the incentive for pollution prevention may also be reduced. To ensure that pollution prevention opportunities are reviewed for special waste streams, ecology is proposing to require special waste to be treated the same way as dangerous waste for pollution prevention plan preparation. Notification and annual reporting will be required with this conditional exclusion in order to monitor pollution prevention trends. The waste generation rate information available from annual reports is necessary for planning purposes and to assess planning fees. Generators are therefore required to report special waste on their hazardous waste annual reports.

The other aspect of this conditional exclusion that emphasizes pollution prevention is that special wastes are

excluded from the specific generator and facility management standards of WAC 173-303-120 and 173-303-500 through 173-303-525 when special wastes are legitimately recycled. The only form of recycling that is not recognized as part of the exclusion is when dangerous waste is burned for energy recovery under WAC 173-303-510. WAC 173-303-510 prescribes the kind of facilities that can burn dangerous waste. Ecology believes that because special waste contains low level toxic constituents, these burning requirements will provide necessary protection. The specific subsections of WAC 173-303-510 that specify on-site storage and handling provisions are unnecessary for special wastes and are not required as a condition of the exclusion. Ecology will use the variance criteria of WAC 173-303-017(5) to determine if a recycling process is legitimate.

Ecology believes that removing many of the management requirements for special waste prior to recycling will encourage innovative approaches to recycling. Ecology strongly encourages recycling over disposal.

To avail themselves of this conditional exclusion, generators must dispose of their wastes as specified in the exclusion, recycle the waste on or off-site, or treat the waste on-site in accordance with WAC 173-303-170 (3)(c). Special waste is not eligible for the conditional exclusion if it is treated in a manner that would require a dangerous waste permit (e.g. incineration or thermal treatment).

WAC 173-303-073 (2)(a), ecology is proposing the 180 day storage requirement for special waste to provide the maximum latitude in planning for disposal and recycling of the waste while ensuring that the waste will be moved off site.

WAC 173-303-073 (2)(b), this subsection specifies that special waste must be stored in a manner that prevents releases to the environment by using compatible containers or by storing special wastes on an impermeable surface with containment so that there is no reasonable pathway for contaminants to enter the environment. Ecology is proposing this performance standard to allow flexibility in accumulation and storage of waste based on different production processes and on-site storage limitations.

WAC 173-303-073 (2)(c), ecology is proposing to allow up to 180 days for storage of special waste prior to recycling. This is more than the twenty-four hour time limit for recycling that applies to dangerous waste. The longer storage time is proposed to make it easier for facilities to recycle their wastes.

WAC 173-303-073 (2)(d), the definition of special waste includes a variety of industrial wastes that can be corrosive, slightly toxic or persistent. Some of these wastes, such as solid corrosives, will irritate skin and eyes on contact. Others, such as Category D toxic waste, are toxic when ingested in large amounts. Ecology believes that these wastes can be safely managed if workers who may be exposed to the wastes are aware of their hazards. Workers that could be exposed to this waste include workers at the generation site, workers involved in transporting the waste, transfer station workers, disposal site workers, and recycling facility workers. Ecology does not anticipate the need for special training programs for workers managing these wastes. The level of care is comparable to other solid waste streams with special handling requirements, such as petroleum contaminated soils.

WAC 173-303-073 (2)(e), special waste can be safely managed in a transfer station if transfer station operators have made arrangements to have the wastes segregated at the transfer station to ensure that workers or the public are not unnecessarily exposed. Special waste can be commingled with solid waste in the trailers or containers leaving the transfer station as long as the record-keeping requirements of WAC 173-303-073 (2)(f) are adhered to.

Ecology expects that many local governments will not have enough special waste managed under the conditional exclusion to warrant revising transfer station operating plans to reflect management of special wastes. However, ecology acknowledges that some local governments will use transfer stations. If transfer stations are to be used, the specific management requirements for special waste must be reflected in the station's operating plan; the plan must be approved by the solid waste permitting authority and the transfer station operator must inform the workers of the hazard. If a transfer station is used in processing these wastes, the generator is still obligated to ensure that the document specified in WAC 173-303-073 (2)(f) accompanies the waste to the final destination.

Many special wastes that could be managed under this exclusion are remediation wastes, the vast majority of which are removed from cleanup sites by truck and then hauled to rail loading facilities where they are transferred into containers for rail transport. Ecology believes that there is little likely route of exposure for workers at these loading facilities. Therefore, no specific operating plans need to be developed or revised to address special waste. However, the special waste documentation specified in WAC 173-303-073 (2)(e) must accompany the waste until it arrives at the receiving facility.

WAC 173-303-073 (2)(f), this section states that both generators of special waste and receiving facilities are required to maintain records of the excluded waste transaction for five years. An invoice from the receiving facility will be considered an adequate record for the generator. The document that accompanies the waste to the receiving facility will be an adequate record for the receiving facility. An example of this document is in WAC 173-303-9906.

WAC 173-303-073 (2)(g), this section requires that a disposal facility receiving special waste must meet the requirements of chapter 173-351 WAC. Ecology considered allowing facilities that are substantially equivalent to chapter 173-351 WAC, but are permitted under different authorities to be eligible to receive special waste. However, chapter 173-351 WAC contains specific language about the contents of permit applications and the processes for obtaining, modifying, renewing and reissuing permits. It would be difficult to incorporate the technical requirements of chapter 173-351 WAC into another rule without the administrative requirements as well. Chapter 173-351 WAC does allow a facility to combine a permit for a landfill unit issued under chapter 173-304 WAC, the minimum functional standards for solid waste, with a permit for a landfill unit issued under chapter 173-351 WAC.

Ecology will allow special waste to be disposed of in solid waste facilities with arid liner designs as specified in WAC 173-351-300 (2)(b) as long as the design includes an engineered liner. Recent arid landfill liner designs have been proposed and evaluated that, under the climatic and

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hydrogeologic circumstances, are superior to nonarid landfills when modeled for hydraulic and contaminant flow to the aquifer.

Enforcement, the generator of the waste has the obligation to ensure that (1) special waste is managed properly, and (2) the waste arrives at the correct receiving facility. If the conditions of the exclusion for special waste are not met, ecology will look first to the generator for responsibility. For example, if a document is not accompanying a special waste in transit to a facility, or if a generator has no invoice in their file to document that a special waste arrived at a facility, the generator will be in violation of the conditional exclusion and subject to the enforcement provisions of WAC 173-303-950.

WAC 173-303-073(3), ecology will update a list of facilities that accept special wastes on a regular basis. The list will be advisory only. Generators can receive a copy of this list by calling their ecology regional office.

Extremely hazardous waste. Ecology is proposing to amend WAC 173-303-081, 173-303-082, 173-303-090, and 173-303-9904 in order to remove the redundant extremely hazardous waste (EHW) requirements from federal wastes, and to eliminate or modify the EHW requirements that are no longer effective. A key redundancy resulted when the Environmental Protection Agency adopted the federal land disposal restrictions (LDRs). The LDRs accomplished the same goal as the waste management requirement that prohibited land disposal of EHW. One situation in which additional EHW requirements are ineffective exists for generators of toxicity characteristic (TC) waste. Some labs do not report the actual concentration in the waste they are testing, and only report whether it is above or below the federal TC limit. Separate reporting systems or additional testing are often required to make the EHW determination. Even when the EHW determination has been made, it does not result in additional waste management requirements that lead to increased environmental protection. The waste is already subject to the federal LDR requirements and the LDR treatment standards reduce the toxic constituents below the EHW level.

The term "EHW" is being changed to "DW" in the sections that describe federal hazardous waste. Although the term "hazardous waste" most accurately describes these wastes because they are federally regulated, the term "DW" is used for consistency with the language of WAC 173-303-070 and the reporting requirements in the 1994 annual report. The definition of "DW" means the portion of the dangerous waste universe that is not EHW, including all federal hazardous wastes. Ecology is further proposing that designation for EHW will only be required when it may change the way the generator must manage their waste; for example, the prohibition for land disposal of state-only EHW at any site, or used oil that designates as EHW. Ecology surveyed all the EHW management requirements and is removing those requirements that are redundant with federal requirements (LDR), retaining some requirements and applying them to DW where it makes sense, and retaining the few requirements that are essential for protection of human health and the environment. Generators will only be required to further designate their DW to determine if it is EHW in the last case where it is essential for protection of human health and the environment.

Ecology is also proposing to amend WAC 173-303-630, 173-303-640, and 173-303-660 to modify the EHW requirements. Currently, these requirements apply exclusively to generators of EHW; however, the requirements are also appropriate for generators of DW in order to apply measures that afford environmental protection. The proposed change to WAC 173-303-630 (7)(d) will provide ecology with the ability to require protection of containers that may not withstand the elements; for example, to prevent freezing of liquid in glass containers or rain soaking through "super sacks" (large nylon bags used for bulk solids) or fiber drums. The proposed amendment to WAC 173-303-640 (5)(e) is intended to provide for protection of human health and the environment from chronically toxic waste that is often not EHW. Two changes are proposed to WAC 173-303-660. The first, the proposed deletion of WAC 173-303-660 (1)(d), removes the requirement that all EHW stored in waste piles must be protected from dispersal by precipitation or wind because this requirement is redundant with similar requirements at WAC 173-303-660 (2)(a) and (h). One issue to be considered is that the existing WAC 173-303-660 (2)(d) does not allow for less protective requirements from precipitation that is allowed under WAC 173-303-660 (2)(a) and (h). Ecology would like to receive your comments concerning whether or not the more stringent WAC 173-303-660 (2)(d) should be retained. The amendment to WAC 173-303-660 (2)(c) is proposed for consistency with ecology's experience that this information for waste piles is available and should be submitted to ecology.

Solid corrosives. WAC 173-303-090(6), ecology proposes to create a new state-only DW number for solid corrosives, WSC2. Solid corrosives are a state-only waste that is currently assigned the federal waste code for the characteristic of corrosivity (D002). This proposal will eliminate the confusion regarding the management standards that are applicable to this dangerous waste.

State toxicity. WAC 173-303-100(5), ecology is proposing to amend WAC 173-303-100 by simplifying the designation process, providing for the identification of special waste, and aligning the definition of EHW with the definition for acutely toxic substances.

WAC 173-303-100 (5)(b) and (i), for book designating dangerous waste, if a generator has information on more than type of toxic effect, i.e., oral rat, inhalation rat, fish, or dermal rabbit, the toxic effect that is the most stringent must be applied to designate the waste stream.

If fish bioassay LC_{50} data is used for book designating dangerous waste, the LC_{50} data must be from an exposure period greater than 24 hours. LC_{50} test result data from any species is acceptable for book designation. However, if salmonid LC_{50} data is available, it will supersede all other fish bioassay data. If salmonid data is not available, but fathead minnow data is available, the fathead minnow data will supersede all other data.

Ecology is proposing to amend WAC 173-303-100 to create equity between the fish bioassay and the rat bioassay so as to encourage testing of dangerous waste. When failure rates between the two tests are compared for the same constituents, the fish bioassay is one to several orders of magnitude more sensitive that the rat bioassay. Ecology has chosen 100 mg/L for the fish bioassay dangerous waste

designation level to correspond with the 5000 mg/kg designation level for the rat bioassay.

WAC 173-303-100 (5)(b)(iii), this proposed change simplifies the book designation procedure by eliminating the toxic dangerous waste criteria graph at WAC 173-303-9906 (the "Nevada" graph), and classifying state toxic waste as DW or EHW on the basis of equivalent concentration (EC). The change aligns state toxic EHW with the widely accepted definition for acutely toxic substances (acutely toxic substances consist of toxic categories B, A, and X). This means that toxic category C is no longer EHW (an equivalent concentration of 0.1 represents 100% toxic category C). The proposed change also aligns the regulatory thresholds of state wastes to federal wastes of the same toxicity.

Ecology is proposing to implement the part of the statutory definition of hazardous waste that relates hazard to quantity exclusively through the quantity exclusion limits (QEL) instead of by using the Nevada graph. Elimination of the Nevada graph will result in a more simple designation process. This change will lower the quantity threshold for full regulation for wastes that are more toxic than category C. For example, using the Nevada graph, waste that is 100% toxic category B is fully regulated at approximately 70 lbs., and waste that is 100% toxic category A is fully regulated at approximately 8 lbs. Under this proposal, both toxic wastes would be fully regulated at 2.2 lbs., which is the same threshold as federal wastes (acute hazardous wastes) of the same toxicities. The "NOTE" at WAC 173-303-100 (4)(a) is being removed due to the change in the book designation and use of the "Nevada graph" procedures.

WAC 173-303-100 (5)(c), ecology proposes to amend the bioassay designation process in order to align the fish bioassay designation level of 100 mg/L to the acute oral rat designation level toxicity of 5000 mg/kg. Ecology proposes to eliminate the 1000 mg/L static fish bioassay test. Currently, the 100 mg/L static fish bioassay test indicates whether a waste is EHW or DW. Ecology proposes that the 100 mg/L static fish bioassay test will indicate whether a waste is DW, or that it is not regulated as a dangerous waste. Ecology also proposes that a person may choose to do either the acute oral rat bioassay (5000 mg/kg) or the static fish bioassay (currently 1000 mg/L, proposed to be 100 mg/L) to determine if the waste is DW. If, at these concentrations, the waste fails one of the bioassays then the waste designates as DW and no further testing is required unless (1) the person must determine if the waste is EHW because it will be managed as described in WAC 173-303-070(5), additional designation required, (2) the department requires additional testing in accordance with WAC 173-303-070(4), or (3) the waste is solid and state-only and the generator wants to determine if the waste is special waste.

To determine if a waste is EHW, a generator can use the oral rat bioassay at 50 mg/kg or the fish bioassay at 10 mg/L. The fish bioassay at 10 mg/L does not strictly correspond to the proposed definition of EHW which includes categories X-B toxicity categories. At 10 mg/L the fish bioassay includes category C toxins as well. However, ecology's experience suggests that a fish bioassay conducted at concentrations less than 10 mg/L will not be reproducible because of the small sample size.

Generators choosing to test their state-only solid dangerous waste streams to determine if they are special waste can use an oral rat bioassay at 500 mg/L or a fish bioassay at 10 mg/L. These test methods are in ecology's biological testing methods and will be updated.

PAHs. WAC 173-303-100(6), the current technique for determining waste designation status for PAHs involves analyzing and quantifying PAH concentrations by summing the four, five, and six membered rings. This is a nonstandard analytical technique and it is difficult to reproduce the PAH concentrations determined from this method.

Ecology is proposing to move forward with a PAH testing method that relies on analyzing and quantifying the EPA list of priority pollutants. This list consists of: Acenapthene, acenapthylene, fluorene, naphthalene, anthracene, fluoranthene phenanthrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, pyrene, chrysene, benzo(a)pyrene, dibenz(a,h)anthracene, indeno(1,2,3-c,d)pyrene, benzo(g,h,i)perylene.

RCW 70.105.010(6) defines EHW as follows: "Extremely hazardous waste" means any dangerous waste which (a) will persist in a hazardous form for several years or more at a disposal site and which in its persistent form (i) presents a significant environmental hazard and may be concentrated by living organisms through a food chain or may effect the genetic makeup of man or wildlife, and, (ii) is highly toxic to man or wildlife (b) if disposed of at a disposal site in such quantities as would present an extreme hazard to man or the environment. Ecology has determined that wastes containing 1% PAHs should be defined as EHW.

In assessing the application of a list of PAHs to be summed for waste designation, ecology reviewed the list of PAHs profiled by the United States Department of Health, Agency for Toxic Substances and Disease Registry (ATSDR). This list was developed based upon criteria that includes the toxicity of PAHs and the frequency of occurrence at national priority list cleanup sites. The ATSDR list differs from the EPA priority pollutant list in that it includes benzo(e)pyrene and benzo(j)fluoranthene, and does not include naphthalene. We propose to not include benzo(j)fluoranthene in the list of PAHs to be summed for waste designation because our experience has been that this compound will be measured as benzo(b)fluoranthene or benzo(k)fluoranthene and therefore a separate analysis is unnecessary. We propose not to use benzo(e)pyrene because most of the labs we have worked with do not have standards readily available for this compound. We are proposing to use naphthalene as a standard for analysis, even though the ASTDR did not profile it, because ecology's experience has been that it is commonly found in coal tar pitch and it is both toxic (Category C toxicity for oral rat) and bioaccumulative (hazardous substances data base, National Library of Medicine Toxicology Data Network, U.S. Health and Human Services Agency).

Carcinogens. WAC 173-303-100(7), ecology is proposing to regulate carcinogens through the toxic and persistent criteria classifications and to discontinue the use of a separate list of carcinogens regulated at 100 ppm because (1) there are several problems implementing the existing rule, (2) carcinogenic wastes also designate under the toxic and persistent criteria, and (3) annual report information reviewed by ecology staff indicated that less than two tons of waste regulated by the list of carcinogens referenced in WAC 173-303-100 was reported to ecology

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over a three year period. This represents less than .00001% of the recurrent dangerous waste stream.

There have been a number of problems for generators trying to implement the carcinogen rule. Generators with insufficient knowledge of their waste's constituents cannot afford to conduct the number of individual tests required for all of the listed compounds. Many of the compounds, particularly the inorganic carcinogens, do not have readily available test methods. Also, ecology staff spend a considerable amount of time researching test methods and explaining the designation procedures at the expense of higher priority functions. Another implementation difficulty is that the regulatory level of 100 ppm is not a risk-based number, and for many constituents, it conflicts with the cleanup levels of chapter 173-340 WAC, the Model Toxics Control Act cleanup regulation.

Analysis by ecology staff indicates that, with few exceptions (see next paragraph), the toxic and persistence criteria already capture the present list of regulated carcinogens. A rat bioassay screening level of 5000 mg/kg and a fish bioassay with a waste concentration as low as 100 mg/L capture those wastes regulated by the toxicity criteria. Under the proposed amendment, relatively toxic carcinogens would be regulated more stringently than at present. Less toxic carcinogens would be regulated less stringently, and carcinogens that are halogenated compounds of PAHs (persistence criteria) would still be regulated at 100 ppm.

One exception is diethyl hexel adipate which is included on the IRIS-HEAST list, but has an acute toxicity (LD50) greater than 5000 mg/kg oral rat, and is not a persistent compound. No toxicity data is available for the compounds furium, nitrosodiethanolamine, and nickel subsulphide. It is unknown whether these listed carcinogens would fail a rat bioassay at 5000 mg/kg. A review of waste generation data for the 1989, 1990, and 1991 years of record did not reveal these four compounds among the forty-five reported as carcinogens.

Evidence shows that more potent carcinogens are often also more toxic. By calculating toxic equivalencies in WAC 173-303-100, ecology proposes to regulate category X toxic carcinogens at 10 ppm, and category A toxic carcinogens at 100 ppm. Each successive category (B through D) will be regulated one order of magnitude less stringently. Recent research shows that for compounds determined to be carcinogens, a measure of acute toxicity correlates as well or better than any other short-term bioassay.

Ecology is not suggesting that the toxicity test or persistence classification actually measure carcinogenicity. Ecology is proposing an alternative to regulating a list of carcinogens, all at 100 ppm, and taking advantage of other tests that capture the listed compounds. Ecology will continue to monitor the effectiveness of regulating carcinogens through other classifications and will periodically evaluate whether newly discovered carcinogens are likely to be found in wastes.

Empty container. WAC 173-303-160 (2)(a), ecology is proposing a revision to the definition of what constitutes an empty container that will be more consistent with the EPA's definition. This is accomplished by changing the volume allowed to remain in an empty container from the current 1% of container capacity to 3%. Ecology is proposing this revision because submersible pumps that are used to pump out empty containers cannot pump down to a remaining 1% of container volume (typically 1/4 inch fluid). This creates a problem because the Uniform Fire Code (UFC 79.802(c)) states "Class I and Class II liquids shall not be dispensed by gravity from tanks, drums, barrels, or similar containers." This puts the generator in a position of not being able to empty dangerous waste from containers, therefore, the container must be managed as dangerous waste even though the container has been emptied by appropriate methods. This proposed revision will allow businesses such as solvent recyclers to transport emptied containers without a manifest.

PCBs. WAC 173-303-9904 and 173-303-071 (3)(k), ecology is proposing to revise the PCB listing at WAC 173-303-9904 for the following reasons: (1) To eliminate confusion by clarifying which wastes are captured by the listing, (2) to better coordinate with regulation of PCBs under the Toxic Substances Control Act (TSCA), and (3) to simplify the regulatory requirements. The first proposed revision is to have the listing for PCB contaminated transformers, capacitors, and bushings begin at 2 ppm. This revision will make the state PCB listing level consistent with the regulatory level for PCB contaminated oil in 40 CFR Part 761 (TSCA). Consistency with the TSCA regulation for PCB contaminated oil will reduce confusion when implementing the rule. In addition, this will allow de minimis levels of PCB contaminated material (< 2 ppm) to be managed as solid waste thus conserving valuable hazardous waste landfill space for higher hazard wastes.

Another proposed revision to the existing rule is to delete the rinsing requirement for transformers, capacitors, and bushings specified in WAC 173-303-9904 and defer to TSCA's electrical equipment draining requirements. The rinsing results in large volumes of low level PCB contaminated rinsate. Ecology is proposing to delete the rinsing requirements because there is no evidence that the small reduction in PCB contamination derived from rinsing justifies the large volumes of rinsate generated.

This proposal will make the draining requirements consistent with the draining requirements of 40 CFR 761, thus resulting in less confusion during implementation. Once a transformer, capacitor, or bushing has been drained of all free flowing PCB containing liquid, the article is not included in the listing as long as it remains essentially whole (all PCB containing components of the article must be closed). If wastes are generated as a result of subsequent salvaging, rebuilding or disposal activities, even if from drained articles, these newly generated wastes would meet the description in the listing and would be regulated. All of the normal recycling provisions in the rule would apply if these wastes are recycled.

F-listed solvents. WAC 173-303-9904, in 1985, the federal RCRA program established a ten percent solvent constituent threshold for regulating listed waste solvents. A waste solvent is not regulated as a federal listed waste solvent if there is not at least ten percent of the solvent constituent in the product prior to use. Ecology is proposing to adopt EPA's ten percent solvent rule to solve implementation problems with the current rule. This proposal will eliminate the confusion caused by state-only waste (solvent below the ten percent threshold) with a federal waste code. State-only waste solvents carrying federal waste codes cause

problems in interstate commerce. When facilities such as recyclers receive the waste, the federal waste code indicates that they must manage the waste under RCRA hazardous waste rules. Solvent recyclers say that this creates a disincentive for recycling. Another problem is that the RCRA land disposal restrictions require generators to send notifications with the federal wastes that they ship to receiving facilities. Because generators know that they are shipping a state-only waste solvent, they often fail to prepare the notices. Since the waste solvents carry a federal waste code, the receiving facilities are assumed to be managing a federal waste. They can be found to be out of compliance if the required generator notices are missing. Finally, ecology staff note that the biggest problem with not adopting the ten percent solvent rule is that all the problems inherent with a listed waste are present. De minimis quantities or materials, contaminated with minuscule quantities of solvent, must remain regulated as dangerous waste even if they do not threaten the environment. There are strong disincentives to treat listed wastes on-site or use listed wastes to make products. Waste solvents not designated by the federal list will continue to be subject to designation by the state's characteristics and criteria. As a result of the proposed amendments to the listings, WAC 173-303-082(4) is no longer necessary.

Other changes. The previous discussion primarily addresses changes that resulted from the dangerous waste regulatory reform project. Another proposed change throughout the rules is to change the word "shall" to "will" or "must," as appropriate. This change was suggested as part of an ongoing process of making the rules easier to read. Finally, additional information on the federal rules that are proposed for adoption is available from the department.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. A small business economic impact statement was not required under this proposal. The proposed changes result in a significant net reduction in costs for almost all generators in the state, regardless of size. An economic compliance document was prepared and may be obtained by contacting Bert Ponton at (360) 407-6752.

Economic Policy Act Compliance Document
Small Business Economic Impact Statement

The amendments to chapter 173-303 WAC, the dangerous waste rule, create significant cost reductions for most businesses affected by the existing rule. The changes are covered in the sections below. The total gain for hazardous waste generators for all rule changes is over $11 million per year. The cost reduction for generators due to each set of amendments is listed at the end of each section.

Small Quantity Generators[1]

Small quantity generators (SQGs) will now be able to accumulate 2200 pounds of dangerous waste before it has to be shipped off site. Generators used to have to ship waste off site once it reached the 220 pound monthly limit.

Society's cost due to risk from this amendment is minimal. Ecology has established performance standards and best management practices in the rule for management of waste produced by small quantity generators.

There will be a cost savings from allowing small quantity generators to accumulate more waste before shipping it. Many have shipped such small amounts in the past that they were charged a flat pick up rate rather than being charged based on tonnage. This meant that the price per pound of disposal was very high. The savings for small quantity generators should range from $428 to $1,169 per year. The total savings for Washington small quantity generators is expected to range from $7.7 million to over $21 million.[2]

Designating Dangerous Waste is Simplified[3]

Ecology wants generators to find the best way to handle dangerous waste. The designation process was set up to handle this question. WAC 173-303-070 is amended to clarify that it is not necessary to carry the designation process beyond the point where further testing and research would not change how the waste should be managed. Additional work on designation would be required if

- federal land disposal restrictions apply
- EHW[4] quantity limits apply
- the waste will be discharged to a publicly owned water treatment plant and that plant is under a "permit by rule"
- the waste is going to land disposal in the state

Several amendments in the sections that describe federal hazardous waste change the state term "EHW" to "DW" that is identified as "acute hazardous waste."[5] Due to recent changes in the federal rules the EHW requirements are redundant to the federal limitations on land disposal. Designation of state EHW will only be required when it may change the way the generator is required to manage waste.[6] EHW was also removed from toxicity characteristic list.[7]

EHW was removed from several sections that describe handling requirements.[8] This means the handling requirements that used to apply only to EHW will now apply to all DW. These handling requirements represent the only possible cost increase in the rule amendment. Since they are common practice and would prevent expensive spills and exposures, it is likely that anyone handling dangerous waste would be in compliance at this time. The extension was necessary to achieve the cost savings due to the elimination of EHW from several other areas of the rule.

The gains for this set of amendments were not estimated. One major result is a reduction in testing costs. For many wastes, it won't be necessary to determine whether an EHW listing is necessary after the tests have shown that the waste is dangerous waste. It is likely that it will benefit smaller generators of EHW disproportionately by comparison with larger generators. Companies manifesting less than 200 pounds reported that testing was 21% of their costs. Companies manifesting over 20 tons reported that testing was only 1% of their cost.[9]

There is no additional risk (social cost) due to the amendment.

Excluded Waste

Ecology has added to the list of excluded waste.[10] Excluded waste is exempt from the regulation. This will create some savings for affected generators.

Special Waste

The "special waste" amendments[11] allow generators of some dangerous waste to use the "special waste exclusion" and manage the waste under reduced requirements. In the past it was still expensive to find a place to dispose of

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special waste. Now this waste, which has a relatively lower hazard, can be disposed of at landfills.[12] These landfills must have a permit under new higher landfill standards in chapter 173-351 WAC.

The amendment will exclude toxic waste with an oral rat toxicity from 0 to 500 mg/Kg from the special waste category. This was necessary in order to allow special wastes to go to landfills,[13] which provides a large cost saving.

The amendments allow low level PCB contaminated solid waste to be handled as special waste.

The savings for allowing the special wastes to be disposed of in a certified landfill are approximately $4 million.[14] This amendment has a low risk due to the stringent requirements for landfills.

Changing solvent requirements to fit EPA's 10% solvent rule

Ecology is dropping the dangerous waste requirements[15] for solvent concentrations of less than 10%. This means that the "F listed" waste listed by the state will be identical to the federal listings. This is expected to increase the ability of generators to recycle this waste when it is shipped to out of state handlers. The increased flexibility should provide occasional cost savings.

Splitting the solid corrosive class of dangerous waste

Ecology is creating a new number, WSC2, for solid corrosives that are not federally regulated so that they will not have the same number as any solid corrosives[16] that are federally listed (D002). This will eliminate confusion, especially if the waste is shipped to out of state handlers.

Carcinogens

Ecology will no longer have a list of carcinogens. Most carcinogens will be regulated through the persistence and toxicity criteria of the designation process.[17] Risk and potential social costs due to this decision are minimal because only 2 tons of carcinogens were listed in the last 3 years. Additionally, most carcinogens have been reported with multiple criteria. In other words, those wastes were already designated using other criteria.

Generators will have reduced testing costs.

Empty Containers

Ecology is revising the definition of empty containers to be consistent with EPA's definition. The volume that is allowed to remain in an emptied container is being raised from 1% to 3%. This change does not apply to EHW.

Under fire codes it is illegal to use gravity to drain class I and class II liquids. However pumps cannot pull the last 1/4 inch of liquid out of containers. Thus the container itself has to be treated as hazardous waste because it is impossible to empty it legally.

This amendment should save some generators money when they dispose of old or damaged containers. Solvent recyclers will no longer have to provide manifests when they ship emptied drums for reuse.

Economic analysis required

Economic Policy and Regulatory Fairness Acts

The Economic Policy Act (chapter 43.21H RCW) requires state agencies to consider economic values when developing rules. The Economic Policy Act does not require that proposed rules be revised to mitigate economic effects. However, economic effects must be considered in the rule-making process. As a result, this document reports the estimated savings in compliance costs for affected businesses in the state.[18]

Regulatory Fairness Act

According to the Regulatory Fairness Act (RFA) (chapter 19.85 RCW), rules promulgated by state agencies must be reviewed in light of their economic impact on small businesses in the state. A small business is defined by the RFA as a for-profit business entity with fifty or less employees. A small business economic impact statement (SBEIS) is required for all rules which have an economic impact on more than twenty percent of all businesses in the state or more than ten percent of the businesses in any one industry, as identified by the three-digit standard industrial classification (SIC) code. One goal of the economic review required by the RFA is to ensure that proposed rules do not place proportionately higher burdens on small businesses in an affected industry.

This rule has been reviewed. The amendments that affect small quantity generators reduce the disproportionate impact of an existing rule. This rule reduces costs for many businesses that have to comply with the current dangerous waste rule. The amendments simplify compliance requirements for generators of special waste, exclude some additional wastes from regulation, emphasize performance rather than prescriptive measures, and extend the time period for compliance for small quantity generators. The amendments fit the description of cost minimizing under the law.

Costs and Benefits

Ecology reviewed the dangerous waste rule to determine the possible gains from shifting to alternative methods of protecting the environment and the population from dangerous waste. The risk of these shifts was not quantified. However, none of the proposed amendments are expected to create even a moderate additional risk. The benefit of the rule amendments is the cost savings to businesses. The risk or social cost of the rule amendments is expected to be very small.

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[1] Small quantity generators will have reduced cost under the following amendments:

Section of 173-303	*Impact*
070(8)	Generators will be allowed to accumulate 2,200 pounds of most dangerous waste (instead of 220 pounds) before they ship it off of their property.
070 (8)(c)	Best management practices were added for small quantity generators who store their dangerous waste in containers.

[2] Aggregated data in Appendix B, dangerous waste regulation reform project. Savings at the lower end of this range are more likely.

[3] The following section is amended.

Section of 173-303	*Impact*
070(3) & 070(5)	Generators can stop testing to determine whether waste is extremely hazardous after waste has been designated unless further designation would

trigger additional, more stringent management of the waste.

[4] EHW means extremely hazardous waste.

[5] Amendments to WAC 173-303-081 and 173-303-082.

[6] Amendments to WAC 173-303-081, 173-303-082, 173-303-090, 173-303-640, 173-303-660, 173-303-100 (5)(b)(iii), 173-303-100 (5)(c), and 173-303-9906.

[7] WAC 173-303-090.

[8] WAC 173-303-630, 173-303-640, and 173-303-660.

[9] Based on aggregated 1991 data in Appendix B, *Dangerous Waste Regulation Reform Project.*

[10] The following changes to the regulation allow these wastes to be disposed of at lower cost in landfills.

WAC Section	*Impact*
071 (3)(k)	Generators of W001 waste do not have to test their waste to obtain the exclusion.
071 (3)(cc)	Owners of wastes no longer have to submit a petition for the exemption if their wastes fail the special waste (toxicity) test only because of chromium. Old WAC 173-303-072(5) is deleted.
071 (3)(r,s)	Study samples of dangerous waste that are used for experiments in treatment are exempted. The size limits depend on whether the waste is acutely dangerous. The size of the exempted samples are increased. Larger scale testing is allowed. An extra year (2 years) is allowed for testing of bioremediation samples. Archived samples can now be kept for 5 years.
071 (3)(w)	Wood preserving solution that has been reclaimed and reused is exempted.
071 (3)(x)	Nonwastewater splash condenser dross residue from treatment of K061 in high temperature metals recovery units is exempt if it is shipped in drums.
071 (3)(z)	Oil re-refining still bottoms that are used as ingredients in asphalt production are no longer a dangerous waste.
9904	Electrical equipment need not be rinsed. The PCB contaminated materials with less than 2 parts per million PCBs can [be] disposed as solid waste.

[11] The following sections apply:

WAC Section	*Impact*
040	Changes the definition of "special waste" so that, for toxics, it is based on an "oral rat toxicity." In addition some PCB waste is included.
073	Exempts special waste from most dangerous waste requirements if it is disposed of in an approved landfill or recycled. Recycled special wastes can now be stored for 180 days rather than for 24 hours.

[12] The landfill disposal is covered in WAC 173-303-073 (2)(g). See the *Proposed Amendments to the Dangerous Waste Regulations, Dangerous Waste Regulatory Reform Project* for a list that explains all of the special waste rule changes.

[13] While special waste handling has been allowed by this rule for some time, there was not a special waste facility. The minimal added requirements allow the use of landfills which provides generators with many options.

[14] This is based on applying the special waste provision to solid WT02 using aggregated data. See Appendix B, *Dangerous Waste Regulation Reform Project.*

[15] Changes to WAC 173-303-9904 affect F001, F002, F003, F004, F005.

[16] Corrosives are federally listed as dangerous because of their characteristic behavior. Characteristic wastes are either ignitable, corrosive, reactive or toxic.

[17] Deletions are in WAC 173-303-040, 173-303-071 (3)(a)(ii)(D), 173-303-100(7), and 173-303-104(3).

[18] For a full listing of the cost savings considered see *Ecology, Dangerous Waste Regulations Reform Project,* "Appendix B: Economics Report."

Hearing Location: On July 5, 1995, at 7:00 p.m., in Spokane, at Public Health Center, 1101 West College Avenue; on July 6, 1995, at 7:00 p.m., in Pasco, at the PUD Auditorium, 1411 West Clark; on July 12, 1995, a 7:00 p.m., in Lacey, at the Ecology Auditorium, 300 Desmond Drive; and on July 13, 1995, at 7:00 p.m., in Seattle, at the City Council Chamber, 600 4th Avenue.

Assistance for Persons with Disabilities: Contact Dave Dubreuil by July 1, 1995, TDD (360) 407-6006, or (360) 407-6721.

Submit Written Comments to: Patricia Hervieux (HWTR), P.O. Box 47600, Olympia, WA 98504-7600, FAX (360) 407-6883, by July 21, 1995.

Date of Intended Adoption: October 19, 1995.

May 24, 1995
Mary Riveland
Director

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-016 Identifying solid waste. (1) Purpose and applicability.

(a) The purpose of this section is to identify those materials that are and are not solid wastes.

(b)(i) The definition of solid waste contained in this section applies only to wastes that also are dangerous for purposes of the regulations implementing chapter 70.105 RCW. For example, it does not apply to materials (such as nondangerous scrap, paper, textiles, or rubber) that are not otherwise dangerous wastes and that are recycled.

(ii) This section identifies only some of the materials which are solid wastes and dangerous wastes under chapter 70.105 RCW. A material which is not defined as a solid waste in this section, or is not a dangerous waste identified or listed in this section, is still a solid waste and a dangerous waste for purposes of these sections if reason and authority

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exists under chapter 70.105 RCW and WAC 173-303-960. Within the constraints of chapter 70.105 RCW, this ((~~shall~~)) will include but not be limited to any material that: Is accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or, due to the dangerous constituent(s) in it, when used or reused would pose a threat to public health or the environment.

(c) Certain materials are solid wastes but are excluded from the requirements of this chapter by WAC 173-303-071 and 173-303-073.

(2) The following terms are used and ((~~shall~~)) will have the meanings as defined in WAC 173-303-040:

(a) Boiler
(b) By-product
(c) Incinerator
(d) Industrial furnace
(e) Reclaim
(f) Recover
(g) Recycle
(h) Used or reused (see reuse or use)
(i) Sludge
(j) Scrap metal
(k) Spent material

(3) Definition of solid waste.

(a) A solid waste is any discarded material that is not excluded by WAC 173-303-017(2) or that is not excluded by variance granted under WAC 173-303-017(5).

(b) A discarded material is any material which is:

(i) Abandoned, as explained in subsection (4) of this section; or

(ii) Recycled, as explained in subsection (5) of this section; or

(iii) Considered inherently waste-like, as explained in subsection (6) of this section.

(4) Materials are solid waste if they are abandoned by being:

(a) Disposed of; or

(b) Burned or incinerated; or

(c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(5) Materials are solid wastes if they are recycled—or accumulated, stored, or treated before recycling—as specified in (a) through (d) of this subsection.

(a) Used in a manner constituting disposal. Materials noted with a "*" in column 1 of Table 1 are solid wastes when they are:

(i)(A) Applied to or placed on the land in a manner that constitutes disposal; or

(B) Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a solid waste).

(ii) However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are applied to the land and that is their ordinary manner of use.

(b) Burning for energy recovery. Materials noted with a "*" in column 2 of Table 1 are solid wastes when they are:

(i) Burned to recover energy;

(ii) Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).

However, commercial chemical products listed in WAC 173-303-9903 or which exhibit any of the criteria or characteristics listed in WAC 173-303-090 or 173-303-100 are not solid wastes if they are themselves fuels.

(c) Reclaimed. Materials noted with a "*" in column 3 of Table 1 are solid wastes when reclaimed.

(d)(i) Accumulated speculatively. Materials noted with a "*" in column 4 of Table 1 are solid wastes when accumulated speculatively.

(ii) A material is "accumulated speculatively" if it is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that—during the calendar year (commencing on January 1)—the amount of material that is recycled, or transferred to a different site for recycling, equals at least seventy-five percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the seventy-five percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under WAC 173-303-071 (3)(n) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

TABLE 1

	Use constituting disposal WAC 173-303-016 (5)(a)	Energy recovery/ fuel WAC 173-303-016 (5)(b)	Reclamation WAC 173-303-016 (5)(c)	Speculative accumulation WAC 173-303-016 (5)(d)
Spent materials	(*)	(*)	(*)	(*)
Commercial chemical products	(*)	(*)	——	——
By-products listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
Sludges listed in WAC 173-303-9904	(*)	(*)	(*)	(*)
By-products exhibiting a characteristic[1] or criteria[2]	(*)	(*)	——	(*)
Sludges exhibiting a characteristic[1] or criteria[2]	(*)	(*)	——	(*)
Scrap metal	(*)	(*)	(*)	(*)

Note: The terms "spent materials," "sludges," "by-products," and "scrap metal" are defined in WAC 173-303-040.

1 The characteristics of dangerous waste are described in WAC 173-303-090.

2 The dangerous waste criteria are described in WAC 173-303-100.

(6) Inherently waste-like materials. The following materials are solid wastes when they are recycled in any manner:

(a) Dangerous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.

(b) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a dangerous waste or are listed as a dangerous waste as defined in WAC 173-303-090 or 173-303-080 through 173-303-082, except for brominated material that meets the following criteria:

(i) The material must contain a bromine concentration of at least 45%; and

(ii) The material must contain less than a total of 1% of toxic organic compounds listed in WAC 173-303-9905; and

(iii) The material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping).

(c) The department will use the following criteria to add wastes to (a) of this subsection:

(i)(A) The materials are ordinarily disposed of, burned, or incinerated; or

(B) The materials contain toxic constituents listed in WAC 173-303-9905 and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

(ii) The material may pose a substantial hazard to human health or the environment when recycled.

(7) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-017 Recycling processes involving solid waste. (1) The purpose of this section is to identify those materials that are and are not solid wastes when recycled. Certain materials, as described in subsection (2) of this section, would not typically be considered to involve waste management and are exempt from the requirements of this chapter. All recycling processes not exempted by subsection (2) of this section are subject to the recycling requirements of WAC 173-303-120.

(2) General categories of materials that are not solid waste when recycled.

(a) Except as provided in subsection (3) of this section, materials are not solid wastes when they can be shown to be recycled by being:

(i) Used or reused as ingredients in an industrial process to make a product provided the materials are not being reclaimed; or

(ii) Used or reused as effective substitutes for commercial products; or

(iii) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for ((~~raw material~~)) feedstock((~~, and the process must use raw materials as principal feedstocks~~)) materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land.

(b) Except as provided in subsection (3) of this section, the department has determined that the following materials when used as described are not solid wastes:

(i) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process;

(ii) Spent pickle liquor which is reused in wastewater treatment at a facility holding a national pollutant discharge elimination system (NPDES) permit, or which is being accumulated, stored, or treated before such reuse;

(iii) Spent sulfuric acid used to produce virgin sulfuric acid.

(3) The following materials are solid wastes, even if the recycling involves use, reuse, or return to the original process (as described in subsection (2)(a) of this section):

(a) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

(c) Materials accumulated speculatively as defined in WAC 173-303-016 (5)(d)(ii); or

(d) Materials listed in WAC 173-303-016(6); or

(e) Any materials that the department determines are being accumulated, used, reused or handled in a manner that poses a threat to public health or the environment.

(4) Documentation of claims that materials are not solid wastes or are conditionally exempt from regulation. Respondents in actions to enforce regulations implementing chapter 70.105 RCW who raise a claim that a certain material is not a solid waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

(5) Variances from classification as a solid waste.

(a) In accordance with the standards and criteria in (b) of this subsection and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that the following recycled materials are not solid wastes:

(i) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in WAC 173-303-016 (5)(d)(ii));

(ii) Materials that are reclaimed and then reused within the original ((~~primary~~)) production process in which they were generated;

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(iii) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;

(iv) State-only dangerous materials (not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA) which serve as an effective substitute for a commercial product or raw material.

(b) Standards and criteria for variances from classification as a solid waste.

(i) The department may grant requests for a variance from classifying as a solid waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The department's decision will be based on the following standards and criteria:

(A) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

(B) The reason that the applicant has accumulated the material for one or more years without recycling seventy-five percent of the volume accumulated at the beginning of the year;

(C) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

(D) The extent to which the material is handled to minimize loss;

(E) Other relevant factors.

(ii) The department may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original ((~~primary~~)) production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(A) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

(B) The prevalence of the practice on an industry-wide basis;

(C) The extent to which the material is handled before reclamation to minimize loss;

(D) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

(E) The location of the reclamation operation in relation to the production process;

(F) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

(G) Whether the person who generates the material also reclaims it;

(H) Other relevant factors.

(iii) The department may grant requests for a variance from classifying as a solid waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

(A) The degree of processing the material has undergone and the degree of further processing that is required;

(B) The value of the material after it has been reclaimed;

(C) The degree to which the reclaimed material is like an analogous raw material;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The extent to which the reclaimed material is handled to minimize loss;

(F) Other relevant factors.

(iv) The department may grant requests for a variance from classifying as a solid waste those materials that serve as an effective substitute for a commercial product or raw material, when such material is not regulated as hazardous waste (defined in WAC 173-303-040) by EPA, if the materials are recycled in a manner such that they more closely resemble products or raw materials rather than wastes. This determination will be based on the following factors:

(A) The effectiveness of the material for the claimed use;

(B) The degree to which the material is like an analogous raw material or product;

(C) The extent to which the material is handled to minimize loss or escape to the environment;

(D) The extent to which an end market for the reclaimed material is guaranteed;

(E) The time period between generating the material and its recycling;

(F) Other factors as appropriate.

(6) Variance to be classified as a boiler.

In accordance with the standards and criteria in WAC 173-303-040 (definition of "boiler"), and the procedures in subsection (7) of this section, the department may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in WAC 173-303-040, after considering the following criteria:

(a) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

(b) The extent to which the combustion chamber and energy recovery equipment are of integral design; and

(c) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

(d) The extent to which exported energy is utilized; and

(e) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

(f) Other factors, as appropriate.

(7) Procedures for variances from classification as a solid waste or to be classified as a boiler.

The department will use the following procedures in evaluating applications for variances from classification as a

solid waste or applications to classify particular enclosed controlled flame combustion devices as boilers:

(a) The applicant must apply to the department for the variance. The application must address the relevant criteria contained in subsections (5)(b) or (6) of this section.

(b) The department will evaluate the application and issue a draft public notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the recycler is located. The department will accept comment on the tentative decision for thirty days, and may also hold a public hearing upon request or at its discretion. The department will issue a final decision after receipt of comments and after the hearing (if any), and this decision may not be appealed to the department.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-020 Applicability. Except as expressly provided elsewhere herein, this chapter 173-303 WAC ((~~shall~~)) will apply to all persons who handle dangerous wastes and solid wastes that may designate as dangerous wastes including, but not limited to:

(1) Generators;

(2) Transporters;

(3) Owners and operators of dangerous waste recycling, transfer, storage, treatment, and disposal facilities; and

(4) The operator of the state's extremely hazardous waste management facility.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-030 Abbreviations. The following abbreviations are used in this regulation.

(1) ASTM - American Society for Testing Materials

(2) APHA - American Public Health Association

(3) CDC - Center for Disease Control

(4) CFR - Code of Federal Regulations

(5) DOT - Department of Transportation

(6) °C - degrees Celsius

(7) DW - dangerous waste

(8) DWS - drinking water standards of the Safe Drinking Water Act

(9) EHW - extremely hazardous waste

(10) EP - extraction procedure

(11) EPA - Environmental Protection Agency

(12) °F - degrees Fahrenheit

(13) g - gram

(14) IARC - International Agency for Research on Cancer

(15) kg - kilogram (one thousand grams)

(16) L - liter

(17) lb - pound

(18) LC_{50} - median lethal concentration ((~~50 percent kill~~))

(19) LD_{50} - median lethal dose ((~~50 percent kill~~))

(20) M - molar (gram molecular weights per liter of solution)

(21) mg - milligram (one thousandth of a gram)

(22) NFPA - National Fire Protection Association

(23) NIOSH - National Institute for Occupational Safety and Health

(24) pH - negative logarithm of the hydrogen ion concentration

(25) POTW - publicly owned treatment works

(26) ppm - parts per million (weight/weight)

(27) RCRA - Resource Conservation and Recovery Act

(28) RCW - Revised Code of Washington

(29) ((~~TLm_{96} - toxic limit median, 96 hours~~

(~~30~~))) TSD facility - transfer, treatment, storage, or disposal facility

(((~~31~~))) (30) UBC - Uniform Building Code

(((~~32~~))) (31) UFC - Uniform Fire Code

(((~~33~~))) (32) USCG - United States Coast Guard

(((~~34~~))) (33) USGS - United States Geological Survey

(((~~35~~))) (34) WAC - Washington Administrative Code

(((~~36~~))) (35) % - percent

(((~~37~~))) (36) # - number

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-040 Definitions. When used in this ((~~regulation~~)) chapter, the following terms have the meanings given below.

"Aboveground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

"Active life" of a facility means the period from the initial receipt of dangerous waste at the facility until the department receives certification of final closure.

"Active portion" means that portion of a facility which is not a closed portion, and where dangerous waste recycling, reuse, reclamation, transfer, treatment, storage or disposal operations are being or have been conducted after:

The effective date of the waste's designation by 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. (See also "closed portion" and "inactive portion.")

"((~~Acutely~~)) Acute hazardous waste" means dangerous waste sources (listed in WAC 173-303-9904) F020, F021, F022, F023, F026, or F027, and discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" ((~~or that show an "X" or "A" in the reason for designation column~~)), including those wastes mixed with source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954. The abbreviation "AHW" will be used in this chapter to refer to those dangerous and mixed wastes which are acutely hazardous.

"Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of dangerous waste from its point of generation to a storage or treatment tank(s), between dangerous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.

((~~"Aquatic LC_{50}" (same as TLm_{96}) means a concentration in mg/L (ppm) which kills in 96 hours half of a group of ten or more of a medium sensitivity warm water species of fish such as Lepomis macrochirus (bluegill) or Pimephales promelas (flathead minnow), or cold water species such as salmonidae, when using the testing method described in WAC 173-303-110.~~))

"Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of ground water to wells or springs.

"Asbestos containing waste material" means any waste that contains more than one percent asbestos by weight and that can be crumbled, pulverized, or reduced to powder when dry, by hand pressure.

"Batch" means any waste which is generated less frequently than once a month.

"Berm" means the shoulder of a dike.

"Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: Process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

The unit must export and utilize at least seventy-five percent of the recovered energy, calculated on an annual basis. In this calculation, no credit ((~~shall~~)) will be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

The unit is one which the department has determined, on a case-by-case basis, to be a boiler, after considering the standards in WAC 173-303-017(6).

"By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

"Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

"Carcinogenic" means a material known to contain a substance which has sufficient or limited evidence as a human or animal carcinogen as listed in both IARC and either IRIS or HEAST.

"Closed portion" means that portion of a facility which an owner or operator has closed, in accordance with the approved facility closure plan and all applicable closure requirements.

"Closure" means the requirements placed upon all TSD facilities to ensure that all such facilities are closed in an acceptable manner (see also "post-closure").

"Commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance which is manufactured or formulated for commercial or manufacturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

"Commercial fertilizer" means any substance containing one or more recognized plant nutrients and which is used for its plant nutrient content and/or which is designated for use or claimed to have value in promoting plant growth, and ((~~shall~~)) will include, but not be limited to, limes, gypsum, and manipulated animal manures and vegetable compost. The commercial fertilizer must be registered with the state or local agency regulating the fertilizer in the locale in which the fertilizer is being sold or applied.

"Compliance procedure" ((~~shall~~)) will mean any proceedings instituted pursuant to the Hazardous Waste ((~~Disposal~~)) Management Act as amended in 1980 and 1983, and chapter 70.105A RCW, or regulations issued under authority of state law, which seeks to require compliance, or which is in the nature of an enforcement action or an action to cure a violation. A compliance procedure includes a notice of intention to terminate a permit pursuant to WAC 173-303-830(5), or an application in the state superior court for appropriate relief under the Hazardous Waste Management Act. A compliance procedure is considered to be pending from the time a notice of violation or of intent to terminate a permit is issued or judicial proceedings are begun, until the department notifies the owner or operator in writing that the violation has been corrected or that the procedure has been withdrawn or discontinued.

"Component" means either the tank or ancillary equipment of a tank system.

"Constituent" or "dangerous waste constituent" means a chemically distinct component of a dangerous waste stream or mixture.

"Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

"Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of WAC 173-303-695.

"Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of dangerous waste or dangerous waste constituents which could threaten the public health or environment.

"Contract" means the written agreement signed by the department and the state operator.

"Corrective action management unit" or "CAMU" means an area within a facility that is designated by the director pursuant to WAC 173-303-646 (4), (5), and (6) for the purpose of implementing the corrective action requirements of WAC 173-303-646(2). A CAMU ((~~shall~~)) will only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

"Corrosion expert" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

"Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents that have caused a waste to be a dangerous waste under this chapter.

"Dangerous waste management unit" is a contiguous area of land on or in which dangerous waste is placed, or the largest area in which there is a significant likelihood of mixing dangerous waste constituents in the same area. Examples of dangerous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Dangerous wastes" means those solid wastes designated in WAC 173-303-070 through 173-303-100 as dangerous, or extremely hazardous or mixed waste. As used in this chapter, the words "dangerous waste" will refer to the full universe of wastes regulated by this chapter. The abbreviation "DW" will refer only to that part of the regulated universe which is not extremely hazardous waste. (See also "extremely hazardous waste," "hazardous waste," and "mixed waste" definitions.)

"Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: A manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: Any material for which a specific treatment standard is provided in 40 CFR Part 268 Subpart D; process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least seventy-five percent of their original volume. A mixture of debris that has not been treated to the standards provided by 40 CFR 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

"Department" means the department of ecology.

"Dermal LD_{50}" means the single dosage in milligrams per kilogram (mg/kg) body weight which, when dermally (skin) applied for 24 hours, within 14 days kills half of a group of ten rabbits each weighing between 2.0 and 3.0 kilograms.

"Designated facility" means the facility designated by the generator on the manifest to receive a dangerous waste shipment and which is authorized pursuant to this chapter or RCRA to recycle or manage dangerous waste.

"Dike" means an embankment or ridge of natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other substances.

"Director" means the director of the department of ecology or his designee.

"Discharge" or "dangerous waste discharge" means the accidental or intentional release of hazardous substances, dangerous waste or dangerous waste constituents such that the substance, waste or a waste constituent may enter or be emitted into the environment.

"Disposal" means the discharging, discarding, or abandoning of dangerous wastes or the treatment, decontamination, or recycling of such wastes once they have been discarded or abandoned. This includes the discharge of any dangerous wastes into or on any land, air, or water.

"Domestic sewage" means untreated sanitary wastes that pass through a sewer system to a publicly owned treatment works (POTW) for treatment.

"Draft permit" means a document prepared under WAC 173-303-840 indicating the department's tentative decision to issue or deny, modify, revoke and reissue, or terminate a permit. A notice of intent to terminate or deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination as discussed in WAC 173-303-830 is not a draft permit.

"Drip pad" is an engineered structure consisting of a curbed, free-draining base, constructed of nonearthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

"Elementary neutralization unit" means a device which:

Is used for neutralizing wastes which are dangerous wastes only because they exhibit the corrosivity characteristics defined in WAC 173-303-090 or are listed in WAC 173-303-081, or in 173-303-082 only for this reason; and

Meets the definition of tank, tank system, container, transport vehicle, or vessel.

"Environment" means any air, land, water, or ground water.

"EPA/state identification number" or "EPA/state ID#" means the number assigned by EPA or by the department of ecology to each generator, transporter, and TSD facility.

"Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of dangerous waste and that is in operation, or for which installation has commenced on or prior to ((~~February 3, 1989~~)) July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

A continuous on-site physical construction or installation program has begun; or

The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without

substantial loss, for physical construction of the site or installation of the tank system to be completed within a reasonable time.

"Existing TSD facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261. A facility has commenced construction if the owner or operator has obtained permits and approvals necessary under federal, state, and local statutes, regulations, and ordinances and either:

A continuous on-site, physical construction program has begun; or

The owner or operator has entered into contractual obligation, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

"Extremely hazardous waste" means those dangerous and mixed wastes designated in WAC 173-303-070 through 173-303-100 as extremely hazardous. The abbreviation "EHW" will be used in this chapter to refer to those dangerous and mixed wastes which are extremely hazardous. (See also "dangerous waste" and "hazardous waste" definitions.)

"Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land used for recycling, reusing, reclaiming, transferring, storing, treating, or disposing of dangerous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combination of them). Unless otherwise specified in this chapter, the terms "facility," "treatment, storage, disposal facility," "TSD facility," "dangerous waste facility" or "waste management facility" ((~~shall~~)) will be used interchangeably. For the purposes of implementing corrective action imposed pursuant to WAC 173-303-646 (2) or (3), the term facility has the following meaning: All contiguous property under the control of an owner or operator seeking or required to have a permit under the provisions of chapter 70.105 RCW or chapter 173-303 WAC, including the definition of facility at RCW 70.105D.020(3).

"Final closure" means the closure of all dangerous waste management units at the facility in accordance with all applicable closure requirements so that dangerous waste management activities under WAC 173-303-400 and 173-303-600 through 173-303-670 are no longer conducted at the facility. Areas only subject to generator standards WAC 173-303-170 through 173-303-230 need not be included in final closure.

"Fish LC50" means the concentration that will kill fifty percent of the exposed fish in a specified time period. For book designation, LC50 data must be derived from an exposure period greater than or equal to twenty-four hours. A hierarchy of species LC50 data should be used that includes (in decreasing order of preference) salmonids, fathead minnows (Pimephales promelas), and other fish species. For the ninety-six-hour static acute fish toxicity test, described in WAC 173-303-110 (3)(b)(i), coho salmon (Oncorhynchus kisutch), rainbow trout (Oncorhynchus mykis), and brook trout (Salvelinus fontinalis) must be used.

"Food chain crops" means tobacco, crops grown for human consumption, and crops grown to feed animals whose products are consumed by humans.

"Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

"Fugitive emissions" means the emission of contaminants from sources other than the control system exit point. Material handling, storage piles, doors, windows and vents are typical sources of fugitive emissions.

"Generator" means any person, by site, whose act or process produces dangerous waste or whose act first causes a dangerous waste to become subject to regulation.

"Genetic properties" means those properties which cause or significantly contribute to mutagenic, teratogenic, or carcinogenic effects in man or wildlife.

"Ground water" means water which fills voids below the land surface and in the earth's crust.

"Halogenated hydrocarbons" (HH) means any organic compounds which, as part of their composition, include one or more atoms of fluorine, chlorine, bromine, iodine, or astatine. The requirements of this chapter apply to only those halogenated hydrocarbons which can be obtained using the testing method described in WAC 173-303-110, testing methods, and which are persistent dangerous wastes.

"Hazardous debris" means debris that contains a hazardous waste listed in WAC 173-303-9903 or 173-303-9904, or that exhibits a characteristic of hazardous waste identified in WAC 173-303-090.

"Hazardous substances" means any liquid, solid, gas, or sludge, including any material, substance, product, commodity, or waste, regardless of quantity, that exhibits any of the physical, chemical or biological properties described in WAC 173-303-090 or 173-303-100.

"Hazardous wastes" means those solid wastes designated by 40 CFR Part 261, and regulated as hazardous and/or mixed waste by the United States EPA. This term will never be abbreviated in this chapter to avoid confusion with the abbreviations "DW" and "EHW." (See also "dangerous waste" and "extremely hazardous waste" definitions.)

"Ignitable waste" means a dangerous waste that exhibits the characteristic of ignitability described in WAC 173-303-090(5).

"Inactive portion" means that portion of a facility which has not recycled, treated, stored, or disposed dangerous waste after:

The effective date of the waste's designation, for wastes designated under 40 CFR Part 261; and

March 10, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"Incinerator" means any enclosed device that:

Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

Meets the definition of infrared incinerator or plasma arc incinerator.

"Incompatible waste" means a dangerous waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials, or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or

explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.

"Independent qualified registered professional engineer" means a person who is licensed by the state of Washington, or a state which has reciprocity with the state of Washington as defined in RCW 18.43.100, and who is not an employee of the owner or operator of the facility for which construction or modification certification is required. A qualified professional engineer is an engineer with expertise in the specific area for which a certification is given.

"Industrial-furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use ((~~controlled flame devices~~)) thermal treatment to accomplish recovery of materials or energy((~~:~~)): Cement kilns((~~,~~)); lime kilns((~~,~~)); aggregate kilns((~~,~~)); phosphate kilns((~~,~~)); blast furnaces((~~,~~)); smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters and foundry furnaces)((~~,~~)); titanium dioxide chloride process oxidation reactors((~~,~~)); coke ovens((~~,~~)); methane reforming furnaces((~~,~~)); combustion devices used in the recovery of sulfur values from spent sulfuric acid((~~, and~~)); pulping liquor recovery furnaces; combustion devices used in the recovery of sulfur values from spent sulfuric acid; and halogen acid furnaces (HAFs) for the production of acid from halogenated dangerous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for dangerous waste burned as fuel, dangerous waste fed to the furnace has a minimum halogen content of 20% as-generated. The department may decide to add devices to this list on the basis of one or more of the following factors:

The device is designed and used primarily to accomplish recovery of material products;

The device burns or reduces secondary materials as ingredients in an industrial process to make a material product;

The device burns or reduces secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks;

The device burns or reduces raw materials to make a material product;

The device is in common industrial use to produce a material product; and

Other factors, as appropriate.

((~~"Infectious waste" means organisms or materials listed in WAC 173-303-083, infectious dangerous wastes.~~))

"Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Inground tank" means a device meeting the definition of "tank" in this section whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

"Inhalation LC_{50}" means a concentration in milligrams of substance per liter of air which, when administered to the respiratory tract for 4 hours or less, kills within 14 days half of a group of ten rats each weighing between 200 and 300 grams.

"Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the waste or reagents used to treat the waste.

"Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

"Interim status permit" means a temporary permit given to TSD facilities which qualify under WAC 173-303-805.

"Land disposal" means placement on the land, except in a corrective action management unit, and includes, but is not limited to, placement in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground mine or cave; concrete vault; bunker; or miscellaneous unit.

"Landfill" means a disposal facility, or part of a facility, where dangerous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, or an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

"Land treatment" means the practice of applying dangerous waste onto or incorporating dangerous waste into the soil surface so that it will degrade or decompose. If the waste will remain after the facility is closed, this practice is disposal.

"Leachable inorganic waste" means solid dangerous waste (i.e., passes paint filter test) that is not an organic/carbonaceous waste and exhibits the toxicity characteristic (dangerous waste numbers D004 to D011, only) under WAC 173-303-090(8).

"Leachate" means any liquid, including any components suspended in the liquid, that has percolated through or drained from dangerous waste.

"Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of dangerous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of dangerous waste into the secondary containment structure.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Liner" means a continuous layer of man-made or natural materials which restrict the escape of dangerous waste, dangerous waste constituents, or leachate through the sides, bottom, or berms of a surface impoundment, waste pile, or landfill.

"Major facility" means a facility or activity classified by the department as major.

"Manifest" means the shipping document, prepared in accordance with the requirements of WAC 173-303-180,

which is used to identify the quantity, composition, origin, routing, and destination of a dangerous waste while it is being transported to a point of transfer, disposal, treatment, or storage.

"Manufacturing process unit" means a unit which is an integral and inseparable portion of a manufacturing operation, processing a raw material into a manufacturing intermediate or finished product, reclaiming spent materials or reconditioning components.

"Miscellaneous unit" means a dangerous waste management unit where dangerous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, containment building, corrective action management unit, temporary unit, underground injection well with appropriate technical standards under 40 CFR Part 146, or unit eligible for a research, development, and demonstration permit under WAC 173-303-809.

"Mixed waste" means a dangerous, extremely hazardous, or acutely hazardous waste that contains both a nonradioactive hazardous component and, as defined by 10 CFR 20.3, source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of dangerous waste and for which installation has commenced after February 3, 1989; except, however, for purposes of WAC 173-303-640 (4)(g)(ii) and 40 CFR 265.193(g)(2) as adopted by reference in WAC 173-303-400(3), a new tank system is one for which construction commences after ((~~February 3, 1989~~)) July 14, 1986. (See also "existing tank system.")

"New TSD facility" means a facility which began operation or for which construction commenced after November 19, 1980, for wastes designated by 40 CFR Part 261, or August 9, 1982, for wastes designated only by this chapter and not designated by 40 CFR Part 261.

"NIOSH registry" means the registry of toxic effects of chemical substances which is published by the National Institute for Occupational Safety and Health.

"Nonsudden accident" or "nonsudden accidental occurrence" means an unforeseen and unexpected occurrence which takes place over time and involves continuous or repeated exposure.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage which the owner or operator neither expected nor intended to occur.

"Off-specification used oil fuel" means used oil fuel that exceeds any specification level described in Table 1 in WAC 173-303-515 or in chapter 173-354 WAC.

"Onground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

"On-site" means the same, geographically contiguous, or bordering property. Travel between two properties divided by a public right of way, and owned, operated, or controlled by the same person, ((~~shall~~)) will be considered on-site travel if: The travel crosses the right of way at a perpendicular intersection; or, the right of way is controlled by the property owner and is inaccessible to the public.

"Operator" means the person responsible for the overall operation of a facility. (See also "state operator.")

"Oral LD_{50}" means the single dosage in milligrams per kilogram (mg/kg) body weight, when orally administered, which, within 14 days, kills half a group of ten or more white rats each weighing between 200 and 300 grams.

"Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

"Partial closure" means the closure of a dangerous waste management unit in accordance with the applicable closure requirements of WAC 173-303-400 and 173-303-600 through 173-303-670 at a facility that contains other active dangerous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other dangerous waste management unit, while other units of the same facility continue to operate.

"Permit" means an authorization which allows a person to perform dangerous waste transfer, storage, treatment, or disposal operations, and which typically will include specific conditions for such facility operations. Permits must be issued by one of the following:

The department, pursuant to this chapter;

United States EPA, pursuant to 40 CFR Part 270; or

Another state authorized by EPA, pursuant to 40 CFR Part 271.

"Permit-by-rule" means a provision of this chapter stating that a facility or activity is deemed to have a dangerous waste permit if it meets the requirements of the provision.

"Persistence" means the quality of a material which retains more than half of its initial activity after one year (365 days) in either a dark anaerobic or dark aerobic environment at ambient conditions.

"Person" means any person, firm, association, county, public or municipal or private corporation, agency, or other entity whatsoever.

"Pesticide" means but is not limited to: Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life, or virus (except virus on or in living man or other animal) which is normally considered to be a pest or which the department of agriculture may declare to be a pest; any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; any substance or mixture of substances intended to be used as spray adjuvant; and, any other substance intended for such use as may be named by the department of agriculture by regulation. Herbicides, fungicides, insecticides, and rodenticides are pesticides for the purposes of this chapter.

"Pile" means any noncontainerized accumulation of solid, nonflowing dangerous waste that is used for treatment or storage.

"Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

"Point source" means any confined and discrete conveyance from which pollutants are or may be discharged. This term includes, but is not limited to, pipes, ditches, channels, tunnels, wells, cracks, containers, rolling stock, concentrated animal feeding operations, or watercraft, but does not include return flows from irrigated agriculture.

"Polycyclic aromatic hydrocarbons" (PAH) means those hydrocarbon molecules composed of two or more benzene rings. For ((~~the~~)) purposes of this chapter, the PAHs of concern ((~~for designation are only those PAH with more than three and less than seven fused benzene rings~~)) are: Acenapthene, acenapthylene, fluorene, naphthalene, anthracene, fluoranthene phenanthrene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, pyrene, chrysene, benzo(a)pyrene, dibenz(a,h)anthracene, indeno(1,2,3-c,d)pyrene, benzo(g,h,i)perylene.

"Post-closure" means the requirements placed upon disposal facilities (e.g., landfills, impoundments closed as disposal facilities, etc.) after closure to ensure their environmental safety for a number of years after closure. (See also "closure.")

"Publicly owned treatment works" or "POTW" means any device or system, owned by the state or a municipality, which is used in the treatment, recycling, or reclamation of municipal sewage or liquid industrial wastes. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW.

"Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgments regarding ground water monitoring and contaminant fate and transport.

"Reactive waste" means a dangerous waste that exhibits the characteristic of reactivity described in WAC 173-303-090(7).

"Reclaim" means to process a material in order to recover useable products, or to regenerate the material. Reclamation is the process of reclaiming.

"Recover" means extract a useable material from a solid or dangerous waste through a physical, chemical, biological, or thermal process. Recovery is the process of recovering.

"Recycle" means to use, reuse, or reclaim a material.

"Regulated unit" means any new or existing surface impoundment, landfill, land treatment area or waste pile that receives any dangerous waste after:

((~~January 26, 1983~~)) July 26, 1982, for wastes regulated by 40 CFR Part 261;

October 31, 1984 for wastes designated only by this chapter and not regulated by 40 CFR Part 261; or

The date six months after a waste is newly identified by amendments to 40 CFR Part 261 or this chapter which cause the waste to be regulated.

"Release" means any intentional or unintentional spilling, leaking, pouring, emitting, emptying, discharging, injecting, pumping, escaping, leaching, dumping, or disposing of dangerous wastes, or dangerous constituents as defined at WAC 173-303-646 (1)(c), into the environment and includes the abandonment or discarding of barrels, containers, and other receptacles containing dangerous wastes or dangerous constituents and includes the definition of release at RCW 70.105D.020(10).

"Remediation waste" means all solid or dangerous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, which contain listed dangerous wastes, or which themselves exhibit a dangerous waste characteristic or criteria, that are managed for the purpose of implementing corrective action requirements imposed pursuant to WAC 173-303-646 (2) or (3). For a given facility, remediation wastes may originate only from within the facility boundary, except that remediation waste may include wastes managed in implementing corrective action in accordance with WAC 173-303-646 (2)(b) for releases extending beyond the facility boundary.

"Replacement unit" means a landfill, surface impoundment, or waste pile unit from which all or substantially all of the waste is removed, and that is subsequently reused to treat, store, or dispose of dangerous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or state approved corrective action.

"Representative sample" means a sample which can be expected to exhibit the average properties of the sample source.

"Reuse or use" means to employ a material either:

As an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

In a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

"Run-off" means any rainwater, leachate, or other liquid which drains over land from any part of a facility.

"Run-on" means any rainwater, leachate, or other liquid which drains over land onto any part of a facility.

"Satellite accumulation area" means a location at or near any point of generation where hazardous waste is initially accumulated in containers (during routine operations) prior to consolidation at a designated ninety-day accumulation area or storage area. The area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes into the satellite containers.

"Schedule of compliance" means a schedule of remedial measures in a permit including an enforceable sequence of interim requirements leading to compliance with this chapter.

"Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators,

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scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

"Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility. This term does not include the treated effluent from a wastewater treatment plant.

"Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of sludge treated on a wet-weight basis.

"Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of either WAC 173-303-090 (6)(a)(ii) or (b).

"Solid waste management unit" or "SWMU" means any discernible location at a facility, as defined for the purposes of corrective action, where solid wastes have been placed at any time, irrespective of whether the location was intended for the management of solid or dangerous waste. Such locations include any area at a facility at which solid wastes, including spills, have been routinely and systematically released. Such units include regulated units as defined by chapter 173-303 WAC.

"Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. *Sorb* means to either adsorb or absorb, or both.

"Special incinerator ash" means ash residues resulting from the operation of incineration or energy recovery facilities managing municipal solid waste from residential, commercial and industrial establishments, if the ash residues are designated as dangerous waste only by this chapter and not designated as hazardous waste by 40 CFR Part 261.

"Special waste" means any dangerous waste that is solid only (nonliquid, nonaqueous, nongaseous), that is ((~~not a regulated hazardous waste under 40 CFR Part 261, and that is designated as only DW in WAC 173-303-090 or 173-303-100~~)): Persistent waste (WAC 173-303-100(6)) and that is not EHW, corrosive waste (WAC 173-303-090(6)), toxic waste that has Category D toxicity (WAC 173-303-100(5)), or PCB waste (WAC 173-303-9904 under State Sources). Any solid waste that is ((~~EHW or that is~~)) regulated by the United States EPA as hazardous waste cannot be a special waste.

"Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

"Stabilization" and "solidification" means a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

"State-only dangerous waste" means a waste designated only by this chapter, chapter 173-303 WAC, and is not regulated as a hazardous waste under 40 CFR Part 261.

"State operator" means the person responsible for the overall operation of the state's extremely hazardous waste facility on the Hanford Reservation.

"Storage" means the holding of dangerous waste for a temporary period. "Accumulation" of dangerous waste, by the generator on the site of generation, is not storage as long as the generator complies with the applicable requirements of WAC 173-303-200 and 173-303-201.

"Sudden accident" means an unforeseen and unexpected occurrence which is not continuous or repeated in nature.

"Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect dangerous waste for transport to dangerous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.

"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), and which is designed to hold an accumulation of liquid dangerous wastes or dangerous wastes containing free liquids. The term includes holding, storage, settling, and aeration pits, ponds, or lagoons, but does not include injection wells.

"Tank" means a stationary device designed to contain an accumulation of dangerous waste, and which is constructed primarily of nonearthen materials to provide structural support.

"Tank system" means a dangerous waste storage or treatment tank and its associated ancillary equipment and containment system.

"Temporary unit" or "TU" means a tank or container unit used temporarily for the treatment or storage of remediation waste, that is designated by the director pursuant to WAC 173-303-646(7) for the purpose of implementing the corrective action requirements of WAC 173-303-646 (2) or (3).

"Thermal treatment" means the treatment of dangerous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the dangerous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

"TLm_{96}" means the same as "Aquatic LC_{50}."

"Totally enclosed treatment facility" means a facility for treating dangerous waste which is directly connected to a production process and which prevents the release of dangerous waste or dangerous waste constituents into the environment during treatment.

"Toxic" means having the properties to cause or to significantly contribute to death, injury, or illness of man or wildlife.

"Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held for ten days or less during the normal course of transportation.

"Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

"Transportation" means the movement of dangerous waste by air, rail, highway, or water.

"Transporter" means a person engaged in the off-site transportation of dangerous waste.

"Travel time" means the period of time necessary for a dangerous waste constituent released to the soil (either by accident or intent) to enter any on-site or off-site aquifer or water supply system.

"Treatability study" means a study in which a dangerous waste is subjected to a treatment process to determine: Whether the waste is amenable to the treatment process; what pretreatment (if any) is required; the optimal process conditions needed to achieve the desired treatment; the efficiency of a treatment process for a specific waste or wastes; or the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the exemptions contained in WAC 173-303-071 (3)(r) and (s), are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of dangerous waste.

"Treatment" means the physical, chemical, or biological processing of dangerous waste to make such wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for storage, or reduced in volume, with the exception of compacting, repackaging, and sorting as allowed under WAC 173-303-400(2) and 173-303-600(3).

"Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which dangerous wastes are degraded, transformed or immobilized.

"Triple rinsing" means the cleaning of containers in accordance with the requirements of WAC 173-303-160 (2)(b), containers.

"Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well, or through a dug well, where the depth of the dug well is greater than the largest surface dimension.

"Underground tank" means a device meeting the definition of "tank" in this section whose entire surface area is totally below the surface of and covered by the ground.

"Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating dangerous waste without posing a threat of release of dangerous waste to the environment.

"Unsaturated zone" means the zone between the land surface and the water table.

"Uppermost aquifer" means the geological formation nearest the natural ground surface that is capable of yielding ground water to wells or springs. It includes lower aquifers that are hydraulically interconnected with this aquifer within the facility property boundary.

"Used oil" means oil that has been refined from crude oil, used, and, as a result of such use, is contaminated by physical or chemical impurities.

"Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

"Wastewater treatment unit" means a device that:

Is part of a wastewater treatment facility which is subject to regulation under either:

Section 402 or section 307(b) of the Federal Clean Water Act; or

Chapter 90.48 RCW, State Water Pollution Control Act, provided that the waste treated at the facility is a state-only dangerous waste; and

Handles dangerous waste in the following manner:

Receives and treats or stores an influent wastewater; or

Generates and accumulates or treats or stores a wastewater treatment sludge; and

Meets the definition of tank or tank system in this section.

"Water or rail (bulk shipment)" means the bulk transportation of dangerous waste which is loaded or carried on board a vessel or railcar without containers or labels.

"Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a dangerous waste release, can be readily cleaned up prior to the release of dangerous waste or dangerous constituents to ground water or surface water.

Any terms used in this chapter which have not been defined in this section ((~~shall~~)) will have either the same meaning as set forth in Title 40 CFR Parts 260, 264, 270, and 124 or else ((~~shall~~)) will have their standard, technical meaning.

As used in this chapter, words in the masculine gender also include the feminine and neuter genders, words in the singular include the plural, and words in the plural include the singular.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-045 References to EPA's hazardous waste and permit regulations. Any references in this chapter to any parts, subparts, or sections from EPA's hazardous waste regulations, including 40 CFR Parts 260 through 280 and Part 124, ((~~shall~~)) will be in reference to those rules as they existed on July 1, ((~~1993~~)) 1995. Copies of the appropriate referenced federal requirements are available upon request from the department.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-060 Notification and identification numbers. (1) Any person who generates, transports, offers for transport, or transfers a dangerous waste, or who owns or operates a dangerous waste TSD facility ((~~shall~~)) must have a current EPA/state identification number (EPA/state ID#). Any person who offers a dangerous waste to a transporter or to a dangerous waste TSD facility which does not have an EPA/state ID#, or whose EPA/state ID# has been cancelled or withdrawn, ((~~shall~~)) will be in violation of this regulation.

(2) Every person who must have an EPA/state ID#, and who has not already received his ID#, must notify the department by obtaining and completing a Washington ((~~state notification of dangerous waste activities, Form 2, and submitting the completed form to the department. Any person already assigned an EPA/state ID# must submit a revised notification Form 2 to the department prior to any changes to his company's name, mailing address, ownership, physical location, or type of dangerous waste activity. Any change in location will require the issuance of a new EPA/state ID#~~)) State Notification of Dangerous Waste Activities

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(Form 2) and submitting the completed form to the department. Any person already assigned an EPA/state ID# must notify ecology of any changes to his company's name, mailing address, ownership, physical location, or type of dangerous waste activity, by submitting a revised Form 2. A Form 2 is required prior to adding or dropping any of the following activities: Permitted treating, storing and/or disposing, immediate recycling, transporting, permit by rule, and/or treatment by generator. For changes of company name or mailing address, the generator may submit a corrected Registration Verification Report (part of the Dangerous Waste Annual Report) in lieu of a revised Form 2. Any change in site location will require the issuance of a new EPA/state ID# for waste generation and management facilities. An EPA/state ID# may not be used at new company locations. A company that has obtained an ID# as a "transporter only" can move to a new location and continue to use the same ID#. A revised notification Form 2 must be submitted to the department. Notification of dangerous waste activities, Form 2 and instructions for its completion may be obtained by contacting the department.

(3) Any person with an EPA/state ID# may request that his ID# be withdrawn if he will no longer be handling dangerous waste at the site the ID# has been assigned to. Any person whose ID# has been withdrawn must notify the department before he uses the ID# at any later date. Notification must be in writing, except in the case of emergencies (e.g., fires, spills, etc.) such notification may be provided by telephone first, and followed within one week by a written notification. Withdrawal will only be granted when all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(4) Any person with an EPA/state ID# may request that his ID# be cancelled if he will no longer occupy the site. Notification must be in writing. An EPA/state ID# ((~~shall~~)) will be considered cancelled only after ((~~issuance of written confirmation by the department and when~~)) all applicable requirements of this chapter and chapter 173-305 WAC have been met.

(5) Any person with a current EPA/state ID# must submit an annual report as required by WAC 173-303-070(8), 173-303-220, and 173-303-390. Any person ((~~that~~)) who has withdrawn or cancelled their ID# ((~~and received confirmation from the department~~)) must submit an annual report ((~~for the calendar year in which their request was approved~~)) up to the effective date of cancellation or withdrawal.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-070 Designation of dangerous waste. (1) Purpose and applicability.

(a) This section describes the procedures for determining whether or not a solid waste is DW or EHW.

(b) The procedures in this section are applicable to any person who generates a solid waste (including recyclable materials) that is not exempted or excluded by this chapter or by the department. Any person who must determine whether or not ((~~his~~)) their solid waste is designated must follow the procedures set forth in subsection (3) of this section. Any person who determines by these procedures that ((~~his~~)) their waste is designated DW or EHW ((~~shall~~)) will be subject to all applicable requirements of this chapter.

(c) The requirements for the small quantity generator exemption are found in subsection (8) of this section.

(2)(a) Once a material has been determined to be a dangerous waste, then any solid waste generated from the recycling, treatment, storage, or disposal of that dangerous waste is a dangerous waste unless and until:

(i) The generator has been able to accurately describe the variability or uniformity of the waste over time, and has been able to obtain demonstration samples which are representative of the waste's variability or uniformity; and

(ii)(A) It does not exhibit any of the characteristics of WAC 173-303-090; however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of WAC 173-303-140 (2)(a), even if they no longer exhibit a characteristic at the point of land disposal; and

(B) If it was a listed waste under WAC 173-303-080 through 173-303-083, it also has been exempted pursuant to WAC 173-303-910(3); or

(iii) If originally designated only through WAC 173-303-100, it does not ((~~exhibit~~)) meet any of the criteria of WAC 173-303-100.

Such solid waste ((~~shall~~)) will include but not be limited to any sludge, spill residue, ash emission control dust, leachate, or precipitation run-off. Precipitation run-off will not be considered a dangerous waste if it can be shown that the run-off has not been contaminated with the dangerous waste, or that the run-off is adequately addressed under existing state laws (e.g. chapter 90.48 RCW), or that the run-off does not exhibit any of the criteria or characteristics described in WAC 173-303-100.

(b) Materials that are reclaimed from solid wastes and that are used beneficially (as provided in WAC 173-303-016 and 173-303-017) are not solid wastes and hence are not dangerous wastes under this section unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.

(c) Notwithstanding subsections (1) and (2) of this section and provided the debris as defined in 40 CFR Part 268 does not exhibit a characteristic identified in WAC 173-303-090, the following materials are not subject to regulation under this chapter:

(i) Hazardous debris as defined in 40 CFR Part 268 that has been treated using one of the required extraction or destruction technologies specified in Table 1 of 40 CFR section 268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(ii) Debris as defined in 40 CFR Part 268 that the department, considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

(3) Designation procedures.

(a) To determine whether or not a solid waste is designated as a dangerous waste a person ((~~shall check the waste against the following sections, and in the following order~~)) must:

(i) First, determine if the waste is a listed discarded chemical product((~~s~~)), WAC 173-303-081;

(ii) Second, determine if the waste is a listed dangerous waste source((~~s~~)), WAC 173-303-082;

(iii) Third, if the waste is not listed in WAC 173-303-081 or 173-303-082, or for the purposes of compliance with the federal land disposal restrictions as adopted by reference in WAC 173-303-140, determine if the waste exhibits any dangerous waste characteristics, WAC 173-303-090; and

(iv) Fourth, if the waste is not listed in WAC 173-303-081 or 173-303-082, and does not exhibit a characteristic in WAC 173-303-090, determine if the waste meets any dangerous waste criteria, WAC 173-303-100.

(b) A person ((~~shall~~)) must check each section, in the order set forth, until ((~~he~~)) they determine((~~s~~)) whether the waste is designated as a dangerous waste. ((~~Once the waste is designated through the lists, characteristics, or criteria he need not determine any other designations for the waste, except as required by subsection (4) or (5) of this section, or for the purposes of compliance with the federal land disposal restrictions, as adopted by reference in WAC 173-303-140. If the designation procedures identify a waste as both EHW and DW (e.g., a waste may be DW for corrosivity and EHW for toxicity characteristic), the waste must be designated EHW.~~)) Once the waste is determined to be a dangerous waste, further designation is not required except as required by subsection (4) or (5) of this section. If a person has checked the waste against each section and the waste is not designated, then the waste is not subject to the requirements of chapter 173-303 WAC.

Any person who wishes to seek an exemption for a waste which has been designated DW or EHW shall comply with the requirements of WAC 173-303-072.

(c) For the purpose of determining if a solid waste is a dangerous waste as identified in WAC 173-303-080 through 173-303-100, a person ((~~shall~~)) must either:

(i) Test the waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110; or

(ii) Apply knowledge of the waste in light of the materials or the process used, when:

(A) Such knowledge can be demonstrated to be sufficient for determining whether or not it designated and/or designated properly; and

(B) All data and records supporting this determination in accordance with WAC 173-303-210(3) are retained on-site.

(4) Testing required. Notwithstanding any other provisions of this chapter, the department may require any person to test a waste according to the methods, or an approved equivalent method, set forth in WAC 173-303-110 to determine whether or not the waste is designated under the dangerous waste lists, characteristics, or criteria, WAC 173-303-080 through 173-303-100. Such testing may be required if the department has reason to believe that the waste would be designated DW or EHW by the dangerous waste lists, characteristics, or criteria, or if the department has reason to believe that the waste is designated improperly (e.g., the waste has been designated DW but should actually be designated EHW). If a person, pursuant to the requirements of this subsection, determines that the waste is a dangerous waste or that its designation must be changed, then he ((~~shall~~)) will be subject to the applicable requirements of this chapter 173-303 WAC. The department ((~~shall~~)) will base a requirement to test a waste on evidence that includes, but is not limited to:

(a) Test information indicating that the person's waste may be DW or EHW;

(b) Evidence that the person's waste is very similar to another persons' already designated DW or EHW;

(c) Evidence that the persons' waste has historically been a DW or EHW;

(d) Evidence or information about a person's manufacturing materials or processes which indicate that the wastes may be DW or EHW; or

(e) Evidence that the knowledge or test results a person has regarding a waste is not sufficient for determining whether or not it designated and/or designated properly.

(5) ((~~Special knowledge. If a generator has designated his waste under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, and has knowledge that the waste also exhibits any of the dangerous waste characteristics, WAC 173-303-090, or that the waste also meets any of the dangerous waste criteria, WAC 173-303-100, then he shall also designate the waste in accordance with those dangerous waste characteristics, or criteria, or both.~~)) Additional designation required. A generator must manage dangerous waste under the most stringent management standards that apply. If a generator has designated their waste as DW under the dangerous waste lists, WAC 173-303-080 through 173-303-082, or characteristics, WAC 173-303-090, a generator must also designate that waste under the dangerous waste criteria, WAC 173-303-100, when designation under the criteria may change how the waste must be managed. Additional designation is only required when:

(a) The waste is designated as DW with a QEL of 220 pounds and the generator has less than 220 pounds of the waste. In this case, a generator must determine if their DW is also designated as a toxic EHW, WAC 173-303-100, with a QEL of 2.2 pounds; or

(b) The waste is designated as DW and the waste is to be discharged to a POTW operating under WAC 173-303-802(4) (Permits by rule). In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100; or

(c) The waste is designated as a state-only DW and the waste is to be:

(i) Managed as used-oil; or

(ii) Land disposed within the state. In this case, a generator must determine if the waste is also an EHW under WAC 173-303-100.

(6) Dangerous waste numbers. When a person is reporting or keeping records on a dangerous waste, he ((~~shall~~)) must use all the dangerous waste numbers which he knows are assignable to his waste from the dangerous waste lists, characteristics, or criteria. For example, if ((~~his~~)) their waste is ignitable *and* contains extremely hazardous concentrations of halogenated hydrocarbons, he ((~~shall~~)) will use the dangerous waste numbers of D001 and WP01. This ((~~shall~~)) will not be construed as requiring a person to designate ((~~his~~)) their waste beyond those designation requirements set forth in subsections (2), (3), (4), and (5) of this section.

(7) Quantity exclusion limits; aggregated waste quantities.

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(a) Quantity exclusion limits. In each of the designation sections describing the lists, characteristics, and criteria, quantity exclusion limits (QEL) are identified. The QEL are used to distinguish when a dangerous waste is only subject to the small quantity generator provisions, and when a dangerous waste is ((~~fully~~)) subject to the full requirements of this chapter. Any solid waste which is not excluded or exempted and which is listed by or exhibits the characteristics or meets the criteria of this chapter is a dangerous waste. Small quantity generators who produce dangerous waste below the QEL are subject to ((~~certain~~)) the requirements described in subsection (8) of this section.

(b) Aggregated waste quantities. ((~~A person~~)) People may be generating, accumulating, or storing more than one kind of dangerous waste ((~~identified by this chapter~~)). In such cases, ((~~the person~~)) they must consider the aggregate quantity of ((~~his~~)) their wastes when determining whether or not ((~~his~~)) their waste amounts exceed the specific limits for waste accumulation or the specific quantity exclusion limits (QEL) for waste generation. Waste quantities must be aggregated for all wastes with common QEL's. ((~~For the purposes of this subsection, when aggregating waste quantities, a person shall include in his calculation dangerous wastes produced by on-site treatment or recycling of dangerous wastes and dangerous wastes being accumulated or stored. For~~)) There is an exception the acute hazardous wastes described in WAC 173-303-081 (2)(a)(iv) should not be aggregated with other wastes with the same QEL for the purposes of determining if the accumulation limit is exceeded. Example((~~:~~)): If a person generates((~~, accumulates, or stores 300~~)) 100 pounds of an ignitable waste and ((~~300~~)) 130 pounds of a persistent waste, then both wastes are regulated because their aggregate waste quantity (((~~600~~)) 230 pounds) exceeds their common QEL of 220 pounds. On the other hand, if a person generates((~~, accumulates, or stores~~)) one pound of ((~~an~~)) a toxic EHW ((~~discarded chemical product~~)) and ((~~300~~)) 218 pounds of a corrosive waste, their quantities would not be aggregated because they do not share a common QEL (2.2 pounds and 220 pounds, respective QEL's). ((~~However, the total quantity of dangerous waste (QEL 220 pounds) and extremely hazardous waste (QEL 2.2 pounds) may not equal or exceed 220 pounds. Additional guidance on aggregating waste quantities is available from the department.~~))

(c) For the purposes of this subsection, when aggregating waste quantities, generators must include in their calculation, dangerous wastes produced by on-site treatment or recycling of dangerous wastes and dangerous wastes being accumulated or stored except for the following ((~~are~~)) categories of waste that are excluded from the quantity determinations ((~~and need not be aggregated as required by (b) of this subsection when calculating total waste quantities~~)).

(i) Dangerous waste that is recycled and that is excluded from regulation under WAC 173-303-120 (2)(a), (3)(c), (e), or (f) is not included in the quantity determinations of this section and is not subject to any requirements of this section.

(ii) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

(iii) Dangerous waste that is removed from on-site storage.

(8) Small quantity generators.

(a) ((~~A person is a~~)) People are small quantity generators and ((~~is~~)) subject to the requirements of this subsection if ((~~his~~)):

(i) Their waste is ((~~designated~~)) dangerous waste under subsection (3) of this section, and the quantity of waste ((~~that he generates, accumulates, or stores~~)) generated (or the aggregated quantity if ((~~he generates~~)) more than one kind of waste is generated) does not equal or exceed the quantity exclusion limit (QEL) for such waste (or wastes) as ((~~listed in WAC 173-303-081(2), 173-303-082(2), and 173-303-090(4)~~)) described in WAC 173-303-070(7); and

(ii) The quantity accumulated or stored does not exceed 2200 pounds for wastes with a 220 pound QEL and 2.2 pounds for waste with a 2.2 pound QEL. (Exception: The accumulation limit for the acute hazardous wastes described in WAC 173-303-081 (2)(iv) is 220 lbs); and

(iii) The total quantity of dangerous waste generated in one month, all DW and EHW regardless of their QELs, does not equal or exceed 220 pounds. If a person generates((~~, accumulates, or stores~~)) any dangerous wastes that exceed the QEL or accumulates or stores waste that exceeds the accumulation limits, then all dangerous waste generated, accumulated, or stored by that person is subject to the requirements of this chapter. ((~~For example, if a person generates four pounds of an EHW discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste. A small quantity generator may accumulate such listed or characteristic waste on-site, however when the quantity (or aggregate quantity) on-site at any time equals or exceeds the quantity exclusion limit for such waste (or wastes) he will not be a small quantity generator and will be subject to all applicable requirements of this chapter.~~)) A small quantity generator who generates in excess of the quantity exclusion limits or, accumulates, or stores waste in excess of the ((~~quantity exclusion limit and~~)) accumulation limits becomes subject to the full requirements of this chapter and cannot again be a small quantity generator until after all dangerous waste on-site at the time he or she became fully regulated have been removed, treated, or disposed.

Example. If a person generates four pounds of an acute hazardous waste discarded chemical product (QEL is 2.2 pounds) and 200 pounds of an ignitable waste (QEL is 220 pounds), then both wastes are fully regulated, and the person is not a small quantity generator for either waste.

(Comment: If a generator generates acute hazardous waste in a calendar month in quantities greater than the QELs, all quantities of that acute hazardous waste are subject to full regulation under this chapter. "Full regulation" means the regulations applicable to generators of greater than 2200 pounds of dangerous wastes in a calendar month.)

(b) ((~~A~~)) Small quantity generators will not be subject to the requirements of this chapter if ((~~he or she~~)) they:

(i) ((~~Complies with subsections (1), (2), (3), and (4) of this section~~)) Designate their waste in accordance with WAC 173-303-070; and

(ii) Manage their waste in a way that does not pose a potential threat to human health or the environment; and

(iii) Either treat((s)) or dispose((s)) of ((the)) their dangerous waste in an on-site facility, or ensure((s)) delivery to an off-site facility, either of which is:

(A) Permitted (including permit-by-rule, interim status, or final status) under WAC 173-303-800 through 173-303-840;

(B) Authorized to manage dangerous waste by another state with a hazardous waste program approved under 40 CFR Part 271, or by EPA under 40 CFR Part 270;

(C) Permitted to manage moderate-risk waste under chapter 173-304 WAC (Minimum functional standards for solid waste handling), operated in accordance with state and local regulations, and consistent with the applicable local hazardous waste plan that has been approved by the department;

(D) A facility that beneficially uses or reuses, or legitimately recycles or reclaims the dangerous waste, or that treats the waste prior to such recycling activities;

(E) Permitted to manage municipal or industrial solid waste in accordance with state or local regulations, or in accordance with another state's solid waste laws if the waste is sent out-of-state; or

(F) A publicly owned treatment works (POTW) provided that ((the)) small quantity generator(s) ((complies)) comply with the provisions of the domestic sewage exclusion found in WAC 173-303-071 (3)(a); and

(((iii))) (iv) Submit((s)) an annual report in accordance with WAC 173-303-220 if ((he has)) they have obtained an EPA/state identification number pursuant to WAC 173-303-060.

(c) Best management practices for small quantity generators. Ecology recommends that small quantity generators comply with the following best management practices when accumulating dangerous waste in containers.

(i) Keep wastes in containers that are in good condition. If a container is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, ecology recommends that generators immediately transfer the contents to a container that is in good condition.

(ii) Label containers in a way that identifies the contents and the associated major risk(s) for the safety of employees, emergency response personnel, and the public. Ecology recommends the use of the standard, yellow, hazardous waste label and a separate label or hand written words that identify the major risk(s) (ignitable, reactive, toxic, corrosive).

(iii) Management of containers.

(A) Keep containers closed except when necessary to add or remove wastes to avoid spills.

(B) Open, handle, or store containers in ways that ensure no leakage, ruptures or tipping.

(C) Have secondary containment for accumulated liquid waste. Have sufficient secondary containment capacity to contain the contents of the largest container (or ten percent of the total volume of liquid, whichever is greater).

(D) Keep volumes of accumulated waste low by properly recycling or disposing of wastes routinely to reduce risks to human health and the environment that may result from the long term storage of dangerous waste.

(d) If a small quantity generator's wastes are mixed with used oil, the mixture is subject to WAC 173-303-510 if it is destined to be burned for energy recovery. Any material produced from such a mixture by processing, blending, or other treatment is also regulated if it is destined to be burned for energy recovery.

AMENDATORY SECTION (Amending Order 93-34, filed 5/23/94, effective 6/23/94)

WAC 173-303-071 Excluded categories of waste. (1) Purpose. Certain categories of waste have been excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, because they generally are not dangerous waste, are regulated under other state and federal programs, or are recycled in ways which do not threaten public health or the environment. WAC 173-303-071 describes these excluded categories of waste.

(2) Excluding wastes. Any persons who generate a common class of wastes and who seek to categorically exclude such class of wastes from the requirements of this chapter ((shall)) will comply with the applicable requirements of WAC 173-303-072. No waste class will be excluded if any of the wastes in the class are regulated as hazardous waste under 40 CFR Part 261.

(3) Exclusions. The following categories of waste are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, and 173-303-960, and as otherwise specified:

(a)(i) Domestic sewage; and

(ii) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works (POTW) for treatment provided:

(A) The generator or owner/operator has obtained a state waste discharge permit issued by the department, a temporary permit obtained pursuant to RCW 90.48.200, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165;

(B) The waste discharge is specifically authorized in a state waste discharge permit, pretreatment permit or written discharge authorization, or in the case of a temporary permit the waste is accurately described in the permit application;

(C) The waste discharge is not prohibited under 40 CFR Part 403.5; and

(D) The waste prior to mixing with domestic sewage ((shall)) must not exhibit dangerous waste characteristics for ignitability, corrosivity, reactivity, or toxicity as defined in WAC 173-303-090, and ((shall)) must not meet the dangerous waste criteria for toxic dangerous waste((,)) or persistent dangerous waste((, or for carcinogenic dangerous waste)) under WAC 173-303-100, unless the waste is treatable in the publicly owned treatment works (POTW) where it will be received. This exclusion does not apply to the generation, treatment, storage, recycling, or other management of dangerous wastes prior to discharge into the sanitary sewage system;

(b) Industrial wastewater discharges that are point-source discharges subject to regulation under Section 402 of the Clean Water Act. This exclusion does not apply to the collection, storage, or treatment of industrial waste-waters prior to discharge, nor to sludges that are generated during industrial wastewater treatment. Owners or operators of certain wastewater treatment facilities managing dangerous

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wastes may qualify for a permit-by-rule pursuant to WAC 173-303-802(5);

(c) Household wastes, including household waste that has been collected, transported, stored, or disposed. Wastes which are residues from or are generated by the management of household wastes (e.g., leachate, ash from burning of refuse-derived fuel) are not excluded by this provision. "Household wastes" means any waste material (including, but not limited to, garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas);

(d) Agricultural crops and animal manures which are returned to the soil as fertilizers;

(e) Asphaltic materials designated only for the presence of PAHs by WAC 173-303-100(6). For the purposes of this exclusion, asphaltic materials means materials intended and used for structural and construction purposes (e.g., roads, dikes, paving) which are produced from mixtures of oil and sand, gravel, ash or similar substances;

(f) Roofing tars and shingles, except that these wastes are not excluded if mixed with wastes listed in WAC 173-303-081 or 173-303-082, or if they exhibit any of the characteristics specified in WAC 173-303-090;

(g) Treated wood waste and wood products including:

(i) Arsenical-treated wood that fails the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D004 through D017 only), or which fails any state criteria, if the waste is generated by persons who utilize the arsenical-treated wood for the materials' intended end use.

(ii) Wood treated with other preservatives provided such treated wood is, within one hundred eighty days after becoming waste:

(A) Disposed of at a landfill that is permitted in accordance with WAC 173-304-460, minimum functional standards for solid waste handling, or chapter 173-351 WAC, criteria for municipal solid waste landfills, and provided that such wood is neither a listed waste under WAC 173-303-9903 and 173-303-9904 nor a TCLP waste under WAC 173-303-090(8); or

(B) Sent to a facility that will legitimately treat or recycle the treated wood waste, and manage any residue in accordance with that state's dangerous waste regulations; or

(C) Sent off-site to a permitted TSD facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through WAC 173-303-845. In addition, creosote-treated wood is excluded when burned for energy recovery in an industrial furnace or boiler that has an order of approval issued pursuant to RCW 70.94.152 by ecology or a local air pollution control authority to burn creosote treated wood.

(h) Irrigation return flows;

(i) Materials subjected to in-situ mining techniques which are not removed from the ground during extraction;

(j) Mining overburden returned to the mining site;

(k) Polychlorinated biphenyl (PCB) wastes:

(i) PCB wastes whose disposal is regulated by EPA under 40 CFR 761.60 (Toxic Substances Control Act) and that are dangerous either because:

(A) They fail the test for toxicity characteristic (WAC 173-303-090(8), Dangerous waste codes D018 through D043 only); or

(B) Because they are designated only by this chapter and not designated by 40 CFR Part 261, are exempt from regulation under this chapter except for WAC 173-303-505 through 173-303-525, ((~~and~~)) 173-303-960, those sections specified in subsection (3) of this section, and 40 CFR Part 266;

(ii) ((~~Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when, using EPA's PCB testing method 600/4-81-045, the waste can be shown to contain less than one part per million (ppm) PCB or when, using ASTM method D 4059-86, the waste can be shown to contain less than two parts per million (ppm) PCB;~~

~~(iii)~~)) Wastes that would be designated as dangerous waste under this chapter solely because they are listed as W001 under WAC 173-303-9904 when such wastes are:

((~~(A) Stored in a manner equivalent to the requirements of 40 CFR 761.65; and~~

~~(B) Within one year of removal from service, disposed of either in an incinerator that complies with 40 CFR 761.70, in a chemical waste landfill that complies with 40 CFR 761.75, in a high efficiency boiler that complies with 40 CFR 761.60 (a)(2)(iii) or (a)(3)(iii), or in a facility otherwise approved in accordance with 40 CFR 761.60(e);~~)) Stored and disposed in a manner equivalent to the requirements of 40 CFR Part 761 Subpart D for PCB concentrations of 50 ppm or greater.

(l) Samples:

(i) Except as provided in (l)(ii) of this subsection, a sample of solid waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter, when:

(A) The sample is being transported to a lab for testing or being transported to the sample collector after testing; or

(B) The sample is being stored by the sample collector before transport, by the laboratory before testing, or by the laboratory after testing prior to return to the sample collector; or

(C) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action).

(ii) In order to qualify for the exemptions in (l)(i) of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

(A) Comply with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(B) Comply with the following requirements if the sample collector determines that DOT or USPS, or other shipping requirements do not apply:

(I) Assure that the following information accompanies the sample:

(AA) The sample collector's name, mailing address, and telephone number;

(BB) The laboratory's name, mailing address, and telephone number;

(CC) The quantity of the sample;

(DD) The date of shipment;

(EE) A description of the sample; and

(II) Package the sample so that it does not leak, spill, or vaporize from its packaging.

(iii) This exemption does not apply if the laboratory determines that the waste is dangerous but the laboratory is no longer meeting any of the conditions stated in (l)(i) of this subsection;

(m) Asbestos wastes or asbestos containing wastes which would be designated only as respiratory carcinogens by WAC 173-303-100, and any other inorganic wastes which are designated only under WAC 173-303-100 because they are respiratory carcinogens, if these wastes are managed in compliance with or in a manner equivalent to the asbestos management procedures of 40 CFR Part 61;

(n) Dangerous waste generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit until it exits the unit in which it was generated. This exclusion does not apply to surface impoundments, nor does it apply if the dangerous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials;

(o) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332), except that these wastes are not excluded if they exhibit one or more of the dangerous waste criteria (WAC 173-303-100) or characteristics (WAC 173-303-090);

(p) Wastes from burning any of the materials exempted from regulation by WAC 173-303-120 (2)(a)(v), (vi), (vii), (viii), or (ix). These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics or criteria;

(q) As of January 1, 1987, secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(ii) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(iii) The secondary materials are never accumulated in such tanks for over twelve months without being reclaimed;

(iv) The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal; and

(v) A generator complies with the requirements of chapter 173-303 WAC for any residues (e.g., sludges, filters, etc.) produced from the collection, reclamation, and reuse of the secondary materials.

(r) Treatability study samples.

(i) Except as provided in (r)(ii) of this subsection, persons who generate or collect samples for the purpose of conducting treatability studies as defined in WAC 173-303-040 are not subject to the requirements of WAC 173-303-180, 173-303-190, and 173-303-200 (1)(a), nor are such samples included in the quantity determinations of WAC 173-303-070 (7) and (8) and 173-303-201 when:

(A) The sample is being collected and prepared for transportation by the generator or sample collector; or

(B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

(C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study; or

(D) The sample or waste residue is being transported back to the original generator from the laboratory or testing facility.

(ii) The exemption in (r)(i) of this subsection is applicable to samples of dangerous waste being collected and shipped for the purpose of conducting treatability studies provided that:

(A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with nonacute dangerous waste, 1000 kg of ((~~any~~)) nonacute dangerous waste other than contaminated media, 1 kg of acutely hazardous waste, ((~~or 250 kg of soils, water, or debris~~)) 2500 kg of media contaminated with acutely hazardous waste for each process being evaluated for each generated waste stream; and

(B) The mass of each sample shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with nonacute dangerous waste or may include 2500 kg of media contaminated with acute hazardous waste, 1000 kg of dangerous waste, and 1 kg of acutely hazardous waste((~~, or 250 kg of soils, water, or debris contaminated with acutely hazardous waste~~)); and

(C) The sample must be packaged so that it will not leak, spill, or vaporize from its packaging during shipment and the requirements of (r)(ii)(C)(I) or (II) of this subsection are met.

(I) The transportation of each sample shipment complies with United States Department of Transportation (DOT), United States Postal Service (USPS), or any other applicable shipping requirements; or

(II) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample:

(AA) The name, mailing address, and telephone number of the originator of the sample;

(BB) The name, address, and telephone number of the laboratory or testing facility that will perform the treatability study;

(CC) The quantity of the sample;

(DD) The date of shipment; and

(EE) A description of the sample, including its dangerous waste number.

(D) The sample is shipped, within ninety days of being generated or of being taken from a stream of previously generated waste, to a laboratory or testing facility which is exempt under (s) of this subsection or has an appropriate final facility permit or interim status; and

(E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:

(I) Copies of the shipping documents;

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(II) A copy of the contract with the facility conducting the treatability study;

(III) Documentation showing:

(AA) The amount of waste shipped under this exemption;

(BB) The name, address, and EPA/state identification number of the laboratory or testing facility that received the waste;

(CC) The date the shipment was made; and

(DD) Whether or not unused samples and residues were returned to the generator.

(F) The generator reports the information required under (r)(ii)(E)(III) of this subsection in its annual report.

(iii) The department may grant requests, on a case-by-case basis, for up to an additional two years for treatability studies involving bioremediation. The department may grant requests on a case-by-case basis for quantity limits in excess of those specified in (r)(ii)(A) and (B) of this subsection and (s)(iv) of this subsection, for up to an additional 5000 kg of media contaminated with nonacute dangerous waste, 500 kg of nonacute ((~~hazardous~~)) dangerous waste, 1 kg of acute hazardous waste, and ((~~250 kg of soils, water, or debris~~)) 2500 kg of media contaminated with acute hazardous waste or for up to an additional 10,000 kg of wastes regulated only by this chapter and not regulated by 40 CFR Part 261, to conduct further treatability study evaluation ((~~when~~)):

(A) In response to requests for authorization to ship, store and conduct treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process, (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

(B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies, when:

There has been an equipment or mechanical failure during the conduct of a treatability study; there is a need to verify the results of previously conducted treatability study; there is a need to study and analyze alternative techniques within a previously evaluated treatment process; or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(C) The additional quantities and time frames allowed in (r)(iii)(A) and (B) of this subsection are subject to all the provisions in (r)(i) and ((~~(ii)(B)~~)) (r)(ii)(C) through (F) of this subsection. The generator or sample collector must apply to the department where the sample is collected and provide in writing the following information:

((~~(A)~~)) (I) The reason the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;

((~~(B)~~)) (II) Documentation accounting for all samples of dangerous waste from the waste stream which have been sent for or undergone treatability studies including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;

((~~(C)~~)) (III) A description of the technical modifications or change in specifications which will be evaluated and the expected results;

((~~(D)~~)) (IV) If such further study is being required due to equipment or mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

((~~(E)~~)) (V) Such other information that the department considers necessary.

(s) Samples undergoing treatability studies at laboratories and testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to chapter 70.105 RCW) are not subject to the requirements of this chapter, except WAC 173-303-050, 173-303-145, and 173-303-960 provided that the conditions of (s)(i) through (xiii) of this subsection are met. A mobile treatment unit (MTU) may qualify as a testing facility subject to (s)(i) through (xiii) of this subsection. Where a group of MTUs are located at the same site, the limitations specified in (s)(i) through (xiii) of this subsection apply to the entire group of MTUs collectively as if the group were one MTU.

(i) No less than forty-five days before conducting treatability studies the laboratory or testing facility notifies the department in writing that it intends to conduct treatability studies under this subsection.

(ii) The laboratory or testing facility conducting the treatability study has an EPA/state identification number.

(iii) No more than a total of 10,000 kg of "as received" media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste or 250 kg of other "as received" dangerous waste is ((~~subjected~~)) subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.

(iv) The quantity of "as received" dangerous waste stored at the ((~~laboratory or testing~~)) facility for the purpose of evaluation in treatability studies does not exceed ((~~1000 kg, the total of which can include 500 kg of soils, water, or debris contaminated with acutely hazardous waste or~~)) 10,000 kg, the total of which can include 10,000 kg of media contaminated with nonacute dangerous waste, 2500 kg of media contaminated with acute hazardous waste, 1000 kg of nonacute dangerous wastes other than contaminated media, and 1 kg of acutely hazardous waste. This quantity limitation does not include((~~:~~

~~(A) Treatability study residues; and~~

~~(B)~~)) Treatment materials (including nondangerous solid waste) added to "as received" dangerous waste.

(v) No more than ninety days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated

material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.

(vi) The treatability study does not involve the placement of dangerous waste on the land or open burning of dangerous waste.

(vii) The laboratory or testing facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:

(A) The name, address, and EPA/state identification number of the generator or sample collector of each waste sample;

(B) The date the shipment was received;

(C) The quantity of waste accepted;

(D) The quantity of "as received" waste in storage each day;

(E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;

(F) The date the treatability study was concluded;

(G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated TSD facility, the name of the TSD facility and its EPA/state identification number.

(viii) The laboratory or testing facility keeps, on-site, a copy of the treatability study contract and all shipping paper associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(ix) The laboratory or testing facility prepares and submits a report to the department by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(A) The name, address, and EPA/state identification number of the laboratory or testing facility conducting the treatability studies;

(B) The types (by process) of treatability studies conducted;

(C) The names and addresses of persons for whom studies have been conducted (including their EPA/state identification numbers);

(D) The total quantity of waste in storage each day;

(E) The quantity and types of waste subjected to treatability studies;

(F) When each treatability study was conducted;

(G) The final disposition of residues and unused sample from each treatability study.

(x) The laboratory or testing facility determines whether any unused sample or residues generated by the treatability study are dangerous waste under WAC 173-303-070 and if so, are subject to the requirements of this chapter, unless the residues and unused samples are returned to the sample originator under the exemption in (r) of this subsection.

(xi) The laboratory or testing facility notifies the department by letter when it is no longer planning to conduct any treatability studies at the site.

(xii) The date the sample was received, or if the treatability study has been completed, the date of the treatability study, is marked and clearly visible for inspection on each container.

(xiii) While being held on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public.

Note: If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate.

(t) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of WAC 173-303-090(8) (dangerous waste numbers D018 through D043 only) and are subject to the corrective action regulations under 40 CFR Part 280.

(u) Special incinerator ash (as defined in WAC 173-303-040).

(v) Wood ash that would designate solely for corrosivity by WAC 173-303-090 (6)(a)(iii). For the purpose of this exclusion, wood ash means ash residue and emission control dust generated from the combustion of untreated wood, wood treated solely with creosote, and untreated wood fiber materials including, but not limited to, wood chips, saw dust, tree stumps, paper, cardboard, residuals from waste fiber recycling, deinking rejects, and associated wastewater treatment solids. This exclusion allows for the use of auxiliary fuels including, but not limited to, oils, gas, coal, and other fossil fuels in the combustion process.

(w)(i) Spent wood preserving solutions that have been reclaimed and are reused for their original intended purpose; and

(ii) Wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood.

(x) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

(y) Used oil filters that are recycled in accordance with WAC 173-303-120 (2)(a)(iii) and (iv), as used oil and scrap metal.

(z) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.

(aa) Wastes that fail the test for the toxicity characteristic in WAC 173-303-090 because chromium is present or are listed in WAC 173-303-081 or 173-303-082 due to the presence of chromium. The waste must not designate for any other characteristic under WAC 173-303-090, for any of the criteria specified in WAC 173-303-100, and must not be listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium. The waste generator must be able to demonstrate that:

(i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

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(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(bb)(i) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in WAC 173-303-040 - blast furnaces, smelting, melting and refining furnaces, and other devices the department may add to the list - of the definition for "industrial furnace"), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified in the tables in this paragraph for all constituents, and exhibit no characteristics of dangerous waste. Testing requirements must be incorporated in a facility's waste analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent	Maximum for any single composite sample-TCLP (mg/l)
Generic exclusion levels for K061 and K062 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
(2)Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70
Generic exclusion levels for F006 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total) (mg/kg)	1.8
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(ii) A one-time notification and certification must be placed in the facility's files and sent to the department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics that are sent to subtitle D units. The notification and certification that is placed in the generator's or treater's files must be updated if the process or operation generating the waste changes and/or if the subtitle D unit receiving the waste changes. However, the generator or treater need only notify the department on an annual basis if such changes occur. Such notification and certification should be sent to the department by the end of the calendar year, but no later than December 31. The notification must include the following information: The name and address of the subtitle D unit receiving the waste shipments; the dangerous waste number(s) and treatability group(s) at the initial point of generation; and, the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of dangerous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment." These wastes are not excluded if they exhibit one or more of the dangerous waste characteristics (WAC 173-303-090) or criteria (WAC 173-303-100).

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-072 Procedures and bases for exempting and excluding wastes. (1) Purpose and applicability.

(a) The purpose of this section is to describe the procedures that will be followed by generators and the department when wastes are considered for exemption or exclusion from the requirements of this chapter. Any person(s) whose waste is exempted or excluded will not be subject to the requirements of this chapter unless the department revokes the exemption or exclusion.

(b) Any person seeking a waste exemption must submit a petition to the department according to the procedures of WAC 173-303-910(3). A petition for exemption will be assessed against the applicable bases for exemption described in subsections (3), (4), and (5) of this section.

(c) Any persons seeking to categorically exclude a class of wastes must submit a petition to the department according to the procedures of WAC 173-303-910(4). A petition for exclusion will be assessed against the applicable bases for exclusion described in subsection (6) of this section.

(2) Department procedures. When considering, granting, or denying a petition for exemption or exclusion, the department ((~~shall~~)) will follow the appropriate procedures described in WAC 173-303-910(1).

(3) Bases for exempting wastes. To successfully petition the department to exempt a waste, the petitioner must demonstrate to the satisfaction of the department that:

(a) He has been able to accurately describe the variability or uniformity of his waste over time, and has been able to obtain demonstration samples which are representative of his waste's variability or uniformity; and, either

(b) The representative demonstration samples of his waste are not designated DW or EHW by the dangerous waste criteria, WAC 173-303-100; or

(c) It can be shown, from information developed by the petitioner through consultation with the department, that his waste does not otherwise pose a threat to public health or the environment. However, this basis for exemption is not applicable to wastes that exhibit any of the characteristics specified in WAC 173-303-090, except 173-303-090 (6)(a)(iii).

(4) Additional bases for exempting listed wastes. In addition to the demonstrations required by subsections (3)(a) and (b) of this section, for wastes listed in WAC 173-303-081 or 173-303-082 the petitioner must also demonstrate to the satisfaction of the department that his waste is not capable of posing a substantial present or potential threat to public health or the environment when improperly treated, stored, transported, disposed of or otherwise managed. The following factors will be considered by the department when assessing such a demonstration:

(a) Whether or not the listed waste contains the constituent or constituents which caused it to be listed. (For the purposes of this subsection, the constituents referred to will include any of the dangerous waste constituents listed in WAC 173-303-9905);

(b) The nature of the threat posed by the waste constituent(s);

(c) The concentration of the constituent(s) in the waste;

(d) The potential of the constituent(s) or any degradation product of the constituent(s) to migrate from the waste into the environment under the types of improper management considered in (h) of this subsection;

(e) The persistence of the constituent(s) or any degradation product of the constituent(s);

(f) The potential for the constituent(s) or any degradation product of the constituent(s) to degrade into nonharmful constituents and the rate of degradation;

(g) The degree to which the constituent(s) or degradation product of the constituent(s) bioaccumulates in ecosystems;

(h) The plausible types of improper management to which the waste could be subjected;

(i) The quantities of the waste generated at individual generation sites or on a state-wide basis. Under this factor, the department will also consider whether or not the waste is listed under WAC 173-303-081 as a discarded chemical product and occurs in a relatively pure form. Any waste discarded chemical product which exceeds the quantity exclusion limit specified in WAC 173-303-081(2) for that waste will not be exempted;

(j) The nature and severity of the public health and environmental damage that has occurred as a result of the improper management of wastes containing the constituent(s);

(k) Actions taken by other governmental agencies or regulatory programs based on the health or environmental threat posed by the waste or waste constituent(s); and

(l) Such other factors as may be appropriate.

(5) ((~~Bases for exempting wastes designated solely for the presence of chromium. The department will exempt a waste which is designated because of the presence of chromium if the petitioner can demonstrate that:~~

~~(a) The waste is not designated for any other characteristic under WAC 173-303-090, or for any of the criteria specified in WAC 173-303-100;~~

~~(b) The waste is not listed in WAC 173-303-081 or 173-303-082 due to the presence of any constituent from WAC 173-303-9905 other than chromium;~~

~~(c) The waste is typically and frequently managed in nonoxidizing environments or under nonoxidizing conditions; and~~

~~(d) Either of the following demonstrations can be made:~~

~~(i) The waste is generated from a process which uses trivalent chromium exclusively (or nearly exclusively), the process does not generate hexavalent chromium, and the chromium in the waste is exclusively (or nearly exclusively) trivalent chromium.~~)) Reserve.

(6) Bases for categorically excluding classes of wastes. This subsection does not apply to any waste class that includes hazardous waste regulated under 40 CFR Part 261. To successfully petition the department to categorically exclude a class of wastes, petitioners must demonstrate to the satisfaction of the department that the petition or petitions for exclusion:

(a) Accurately describe the class of wastes for which categorical exclusion is sought and show that the class of wastes does not include any wastes which would be regulated as hazardous waste under 40 CFR Part 261;

(b) Describe the variability or uniformity of the class of wastes over time and in relation to the individual wastes that comprise the class of waste;

(c) Discuss the generators and their individual wastes that belong to the class of wastes and, to the extent practical, any generators or individual wastes that, although belonging to the class of wastes, are not represented by the petition or petitions; and

(d) For each individual waste within the class of wastes, provide the demonstration described by subsection (3) of this section, except that where it is determined by consultation with the department to be impractical to provide the demonstration for each individual waste, the petitioner or petitioners ((~~shall~~)) will provide the demonstration for samples of the individual wastes determined by consultation with the department to be representative of the class of wastes.

NEW SECTION

WAC 173-303-073 Conditional exclusion of special wastes. (1) Purpose. Special wastes pose a relatively low hazard to human health and the environment. The department believes that special wastes can be safely managed with a level of protection that is intermediate between dangerous and nondangerous solid wastes. This section establishes a conditional exclusion for the management of special wastes.

(2) Exclusion. Special wastes are excluded from the requirements of chapter 173-303 WAC, except for WAC 173-303-050, 173-303-145, 173-303-960, 173-303-060, and 173-303-510 excluding subsections (4)(a), (b)(iii), (5), (6)(c)(d). In addition, special waste must be treated as dangerous waste for purposes of pollution prevention planning as required in chapters 173-307 and 173-305 WAC. Special wastes will not be considered as dangerous waste, provided they are managed in accordance with the standards in this subsection and provided they are disposed, legitimately recycled, or treated on-site consistent with the requirements of WAC 173-303-170 (3)(c).

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(a) Generators may not accumulate special waste on-site for more than one hundred eighty days from the date wastes were generated. The generator must keep a written record showing the dates when accumulation of the wastes began;

(b) During accumulation, special waste must be stored in a manner to prevent releases to the environment. This includes but is not limited to storing wastes in compatible containers, on impermeable surfaces, or in secondary containment structures, etc.;

(c) Facilities that receive special waste for recycling must meet the requirements of (b) of this subsection and store special wastes for no more than one hundred eighty days.

(d) All workers handling special wastes must be informed of the waste's potential hazard, either through worker training, health and safety plans, or notification of workers on a case-by-case basis;

(e) Special wastes must be transported directly from their site of generation to any off-site recycling, treatment, or disposal destination. The wastes must not pass through any intermediate solid waste processing facility, such as a transfer station, unless:

(i) The transfer station operator has made specific provisions for segregating and managing special waste in transfer stations;

(ii) The provisions are reflected in the facilities operating plans;

(iii) The plans have been approved by the transfer station's solid waste permitting authority; and

(iv) The transfer station operator has informed workers of the wastes potential hazard according to (d) of this subsection;

(f) A document must accompany special waste during transit which identifies the type and amount of special waste, its place of origin, the identity of the generator, and the facility to which it is directed. An example form is provided in WAC 173-303-9906. The generator and the receiving facility must maintain a record of the facilities receipt of the special waste for at least five years;

(g) Disposal of special waste must be in landfill units which:

(i) Are permitted in accordance with chapter 173-351 WAC, provided that an engineered liner is used to meet the requirements of arid landfill design requirements, WAC 173-351-300 (2)(b) or are permitted under WAC 173-303-800 through 173-303-840 or if out-of-state under 40 CFR Part 270; and

(ii) Are not currently undergoing corrective action under WAC 173-351-440(6), 40 CFR 258.56, or a similar requirement in state regulations approved by the United States EPA pursuant to 42 USC 6945(c)(1)(B).

(g) Recycling and treatment of special waste must comply with all the standards applicable to dangerous waste under chapter 173-303 WAC, except for WAC 173-303-120 (4)(a) and (b) and WAC 173-303-500 (2)(b).

(3) Approved facilities. Ecology will issue a list of landfills and transfer stations that meet the preceding qualifying criteria to aid generators who wish to dispose of their waste under the exclusion provided by this section.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-075 Certification of designation. (1) Purpose and applicability.

(a) The purpose of WAC 173-303-075 is to establish procedures by which the generator of a solid waste may apply to the department for a review of his waste, and for a determination of the designation of his waste. When a final determination is made, the department ((~~shall~~)) will issue a certificate of designation which ((~~shall~~)) will describe the status of the generator's waste with respect to the designation requirements of this chapter 173-303 WAC.

(b) The provisions of this section are applicable to any person who produces a solid waste, who may be subject to the requirements of this chapter 173-303 WAC as the generator of a dangerous waste and who wishes to obtain a certificate designating the status of his waste.

(2) Certification. Any person who produces a solid waste which could be a dangerous waste may apply to the department, in accordance with the guidelines published pursuant to WAC 173-303-075(4), for a certificate of designation for his waste.

(a) The certificate of designation will describe the status of the designation for a waste or wastes as follows:

(i) Either, the certificate will state that the waste or wastes listed in the certificate are designated dangerous waste; or

(ii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the designation lists or characteristics of WAC 173-303-080 through 173-303-090; or

(iii) The certificate will state that the waste or wastes listed in the certificate are not designated dangerous waste under the dangerous waste lists, characteristics or criteria, WAC 173-303-080 through 173-303-100.

(b) The certificate of designation will, at a minimum, include the following information:

(i) The name, address, telephone number and, where applicable, the EPA/state identification number of the person to whom the certificate is issued;

(ii) A statement of the status of the designation of the waste or wastes listed in the certificate and, if designated, whether DW or EHW;

(iii) A listing of the waste or wastes for which the certificate has been issued;

(iv) The signature of the director or his designee;

(v) The date on which the certificate was issued; and

(vi) The period of time or conditions for which the certificate is valid.

(c) Once a certificate of designation has been issued to a person, that person is no longer subject to the designation procedures of WAC 173-303-080 through 173-303-100, unless the period of time for which the certificate is valid expires, the conditions under which the certificate is valid change, or the department withdraws its certification of designation in accordance with WAC 173-303-075(5). If the certificate states that the waste or wastes listed in it are designated, then the person to whom the certificate is issued ((~~shall~~)) must comply with all applicable requirements of this chapter 173-303 WAC. If the certificate states that the waste or wastes listed in it are not designated, then the

person to whom the certificate is issued is not subject to the requirements of this chapter 173-303 WAC, unless the certificate becomes invalid or the department withdraws its certification.

(d) While an application for a certificate of designation is pending final action by the department, the person applying for certification must comply with all applicable requirements of this chapter 173-303 WAC.

(e) While a certificate of designation is being amended, in accordance with WAC 173-303-075(5), the certificate ((~~shall~~)) will remain in effect except for those parts of the certificate which the department specifically suspends.

(3) Designation. Determination of the status of designation for a waste or wastes for which a certificate of designation is being sought ((~~shall~~)) will follow the procedures set forth in this subsection.

(a) A waste ((~~shall~~)) will be certified as a dangerous waste if it is designated under any of the methods set forth in WAC 173-303-080 through 173-303-100.

(b) A waste ((~~shall~~)) will be certified as not a dangerous waste if:

(i) It has only been checked against WAC 173-303-080 through 173-303-090 (lists and characteristics) and it is not designated; or

(ii) It has been checked against the dangerous waste lists, characteristics and criteria, WAC 173-303-080 through 173-303-100, and it is not designated.

(4) Application. Any person who wishes to apply for a certificate of designation ((~~shall~~)) must do so according to the certification guidelines published by and available from the department. The department ((~~shall~~)) will follow the procedures specified in the certification guidelines when considering an application for a certificate.

(5) Review of certification. Review of and changes to or withdrawal of certificates of designation ((~~shall~~)) will be performed by the department according to the procedures specified in the certification guidelines, available from the department. At a minimum, the certification guidelines provide for the following procedures:

(a) The department will periodically review each certificate of designation to insure that it is current and accurately states the proper designation for the waste or wastes listed on the certificate.

(b) The department may amend, or any person with a certificate of designation may request the department to amend, any certificate in the event that changes to the certificate are necessary to keep it current or maintain its accuracy. The person will obtain concurrence of the department if he wishes to amend his certificate to reflect changes in the information on the certificate (e.g., new wastes, changes in waste properties, changes of address, etc.).

(c) The department reserves the authority to withdraw any certificate of designation if there is reason to believe that the certificate results in a threat to public health or the environment. If a certificate is withdrawn, then the waste or wastes listed on the certificate ((~~shall~~)) will be subject to all applicable requirements of this chapter 173-303 WAC.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-081 Discarded chemical products. (1) A waste ((~~shall~~)) will be designated as a dangerous waste if it is handled in any of the manners described in (e) of this subsection, and if it is a residue from the management of:

(a) A commercial chemical product or manufacturing chemical intermediate which has the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(b) An off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(c) Any containers, inner liners, or residue remaining in a container or in an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate that has, or any off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed on the ((~~acutely dangerous~~)) "P" discarded chemical products list of WAC 173-303-9903, unless the containers or inner liners are empty as described in WAC 173-303-160(2);

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of a commercial chemical product or manufacturing chemical intermediate which has, or of an off-specification commercial chemical product or manufacturing chemical intermediate which if it had met specifications would have, the generic name listed in the discarded chemical products list, WAC 173-303-9903;

(e) The materials or items described in (a), (b), (c), and (d) of this subsection are dangerous wastes when they are:

(i) Discarded or intended to be discarded as described in WAC 173-303-016 (3)(b)(i);

(ii) Burned for purposes of energy recovery in lieu of their original intended use;

(iii) Used to produce fuels in lieu of their original intended use;

(iv) Applied to the land in lieu of their original intended use; or

(v) Contained in products that are applied to the land in lieu of their original intended use.

(2) Quantity exclusion limits:

(a) A person with a waste or wastes (including residues from the management of wastes) identified in subsection (1) of this section, ((~~shall~~)) will be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(i) For chemicals designated on the ((~~acutely dangerous~~)) "P" discarded chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) per month or per batch. Such wastes are designated ((~~EHW~~)) DW and are identified as acute hazardous wastes;

(ii) For chemicals, and for residues from the cleanup of spills involving chemicals, designated on the ((~~moderately dangerous~~)) "U" discarded chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated DW;

(iii) For containers or inner liners which held any chemical designated on the ((~~acutely dangerous~~)) "P"

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discarded chemical products list of WAC 173-303-9903 - 2.2 lbs. (1.0 kg) of residue remaining in the containers or inner liners per month or per batch unless the containers or inner liners meet the definition of empty and have been triple rinsed as described in WAC 173-303-160(2). Such wastes are designated DW and are identified as acute hazardous wastes;

(iv) For residues, contaminated soil, water, or other debris from the cleanup of a spill of any chemical designated on the ((~~acutely dangerous~~)) "P" discarded chemical products list of WAC 173-303-9903 - 220 lbs. (100 kg) per month or per batch. Such wastes are designated ((~~EHW~~)) DW and are identified as acute hazardous wastes.

(b) A person's total monthly waste quantity ((~~shall~~)) will be the sum of all ((~~his~~)) their wastes which share a common quantity exclusion limit (e.g., the total quantity of all ((~~EHW~~)) discarded chemical products with a 2.2 pound QEL, the total quantity of all residues contaminated by ((~~EHW~~)) discarded chemical products with a 2.2 pound QEL, etc.) which were generated during a month or a batch operation at each specific waste generation site.

(3) Dangerous waste numbers and mixtures. A waste which has been designated as a discarded chemical product dangerous waste ((~~shall~~)) will be assigned the dangerous waste number or numbers listed in WAC 173-303-9903 next to the generic chemical or chemicals which caused the waste to be designated. If a person mixes a solid waste with a waste that would be designated as a discarded chemical product under this section, then the entire mixture ((~~shall~~)) will be designated. The mixture designation ((~~shall~~)) will be the same as the designation for the discarded chemical product which was mixed with the solid waste. For example, a mixture containing 2.2 lbs. (1 kg) of Aldrin (dangerous waste number P004((~~, EHW~~)), DW designation, QEL of 2.2 lbs.) and 22 lbs. (10 kg) of a solid waste, would be designated ((~~as an EHW~~)) DW, and identified as acute hazardous waste. The mixture would have the dangerous waste number P004.

(4) ((~~For the purposes of this chapter, the term "acutely hazardous waste" shall include discarded chemical products (listed in WAC 173-303-9903) that are identified with a dangerous waste number beginning with a "P" or that show an "X" or "A" in the reason for designation column.~~)) Reserve.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-082 Dangerous waste sources. (1) The dangerous waste sources list appears in WAC 173-303-9904. Any waste ((~~which~~)) that is listed or ((~~which~~)) is a residue from the management of a waste listed on the dangerous waste sources list ((~~shall~~)) will be designated a dangerous waste, and ((~~shall~~)) will be identified as DW((~~, except that WAC 173-303-9904 includes several footnotes describing circumstances under which certain dangerous waste sources should be designated EHW rather than DW~~)).

(2) Quantity exclusion limit. A person whose waste is listed in WAC 173-303-9904 (including residues from the management of such wastes) ((~~shall~~)) will be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the amount of his waste exceeds the following quantity exclusion limits:

(a) 2.2 lbs. (1 kg) per month or per batch for wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027. ((~~For the purposes of this chapter, the term "acutely hazardous waste" shall include dangerous waste sources F020, F021, F022, F023, F026, and F027~~)). These wastes are designated DW and identified as acute hazardous wastes;

(b) 220 lbs. (100 kg) per month or per batch of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water of a waste listed in (a) of this subsection. These wastes are designated DW and identified as acute hazardous wastes; or

(c) 220 lbs. (100 kg) per month or per batch for all other wastes.

(3) Care should be taken in the proper designation of these wastes and of mixtures of these wastes and solid wastes. If a person mixes a solid waste with a waste that would be designated as a dangerous waste source under this section, then the entire mixture ((~~shall~~)) will be designated as a dangerous waste source. The mixture ((~~shall~~)) will have the same designation (DW ((~~or EHW~~))), and ((~~shall~~)) will have the same dangerous waste number as the dangerous waste source which was mixed with the solid waste.

(4) ((~~For the purposes of this section, any dangerous waste source listed in WAC 173-303-9904 which lists more than one chemical compound must be designated as a dangerous waste if it contains any one or any combination of the listed chemical compounds. For example, a spent nonhalogenated solvent containing both xylene and acetone must be designated as dangerous waste source F003~~)) Reserve.

((~~(5)~~)) 40 CFR Part 261 Appendix VII *Basis for Listing Hazardous Waste* is adopted by reference.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-083 ((~~Reserved.~~)) Deletion of certain dangerous waste codes following equipment cleaning and replacement. (1) Wastes from wood preserving processes at plants that do not resume or initiate use of chlorophenolic preservatives will not meet the listing definition of F032 once the generator has met all of the requirements of subsections (2) and (3) of this section. These wastes may, however, continue to meet another dangerous waste listing description or may exhibit one or more of the dangerous waste characteristics.

(2) Generators must either clean or replace all process equipment that may have come into contact with chlorophenolic formulations or constituents thereof, including, but not limited to, treatment cylinders, sumps, tanks, piping systems, drip pads, fork lifts, and trams, in a manner that minimizes or eliminates the escape of dangerous waste or constituents, leachate, contaminated drippage, or dangerous waste decomposition products to the ground water, surface water, or atmosphere.

(a) Generators will do one of the following:

(i) Prepare and follow an equipment cleaning plan and clean equipment in accordance with this section;

(ii) Prepare and follow an equipment replacement plan and replace equipment in accordance with this section; or

(iii) Document cleaning and replacement in accordance with this section, carried out after termination of use of chlorophenolic preservatives.

(b) Cleaning requirements.

(i) Prepare and sign a written equipment cleaning plan that describes:

(A) The equipment to be cleaned;

(B) How the equipment will be cleaned;

(C) The solvent to be used in cleaning;

(D) How solvent rinses will be tested; and

(E) How cleaning residues will be disposed.

(ii) Equipment must be cleaned as follows:

(A) Remove all visible residues from process equipment;

(B) Rinse process equipment with an appropriate solvent until dioxins and dibenzofurans are not detected in the final solvent rinse.

(iii) Analytical requirements.

(A) Rinses must be tested in accordance with SW-846, Method 8290.

(B) "Not detected" means at or below the lower method calibration limit (MCL) in Method 8290, Table 1.

(iv) The generator must manage all residues from the cleaning process as F032 waste.

(c) Replacement requirements.

(i) Prepare and sign a written equipment replacement plan that describes:

(A) The equipment to be replaced;

(B) How the equipment will be replaced; and

(C) How the equipment will be disposed.

(ii) The generator must manage the discarded equipment as F032 waste.

(d) Documentation requirements. Document that previous equipment cleaning and/or replacement was performed in accordance with this section and occurred after cessation of use of chlorophenolic preservatives.

(3) The generator must maintain the following records documenting the cleaning and replacement as part of the facility's operating record:

(a) The name and address of the facility;

(b) Formulations previously used and the date on which their use ceased in each process at the plant;

(c) Formulations currently used in each process at the plant;

(d) The equipment cleaning or replacement plan;

(e) The name and address of any persons who conducted the cleaning and replacement;

(f) The dates on which cleaning and replacement were accomplished;

(g) The dates of sampling and testing;

(h) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization, preservation, and chain-of-custody of the samples;

(i) A description of the tests performed, the date the tests were performed, and the results of the tests;

(j) The name and model numbers of the instrument(s) used in performing the tests;

(k) QA/QC documentation; and

(l) The following statement signed by the generator or his authorized representative: I certify under penalty of law that all process equipment required to be cleaned or replaced under WAC 173-303-083 was cleaned or replaced as represented in the equipment cleaning and replacement plan and accompanying documentation. I am aware that there are significant penalties for providing false information, including the possibility of fine or imprisonment.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-090 Dangerous waste characteristics. (1) Purpose. The purpose of this section is to set forth characteristics which a solid waste might exhibit and which would cause that waste to be a dangerous waste.

(2) Representative samples. The department will consider a sample obtained using any of the applicable sampling methods described in WAC 173-303-110(2), sampling and testing methods, to be a representative sample.

(3) Equivalent test methods. The testing methods specified in this section ((~~shall~~)) will be the only acceptable methods, unless the department approves an equivalent test method in accordance with WAC 173-303-910(2).

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it exhibits one or more of the dangerous waste characteristics described in subsections (5), (6), (7), and (8) of this section. If a person's solid waste exhibits one or more of these characteristics, then he ((~~shall~~)) will be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of his waste exceeds 220 lbs. (100 kg) per month or per batch.

(5) Characteristic of ignitability.

(a) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(i) It is a liquid, other than an aqueous solution containing less than 24 percent alcohol by volume, and has a flash point less than 60 degrees C (140 degrees F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78;

(ii) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard;

(iii) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation; or,

(iv) It is an oxidizer as defined in 49 CFR 173.151.

(b) A solid waste that exhibits the characteristic of ignitability ((~~shall~~)) will be designated DW, and ((~~shall~~)) will be assigned the dangerous waste number of D001.

(6) Characteristic of corrosivity.

(a) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has any one or more of the following properties:

(i) It is aqueous, and has a pH less than or equal to 2, or greater than or equal to 12.5, using Method 9040 or 9041 in *Test Methods for Evaluating Solid Waste (SW 846), Physical/Chemical Methods,* available from the department;

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(ii) It is liquid, and corrodes steel (SAE 1020) at a rate greater than 0.250 inch (6.35 mm) per year at a test temperature of 55 degrees C (130 degrees F) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods.* The NACE Standard is available from the department; or

(iii) It is solid or semi-solid, and when mixed with an equal weight of water results in a solution, the liquid portion of which has the property specified in (a)(i) of this subsection. Procedures for preparing and extracting the solution and liquid are described in the test procedures of WAC 173-303-110 (3)(a).

(b) A solid waste that exhibits the characteristic of corrosivity ((~~shall~~)) because:

(i) It has either of the properties described in (a)(i) or (ii) of this subsection will be designated DW, and ((~~shall~~)) will be assigned the dangerous waste number of D002;

(ii) It only has the property described in (a)(iii) of this subsection will be designated DW, and will be assigned the dangerous waste number of WSC2.

(7) Characteristic of reactivity.

(a) A solid waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(i) It is normally unstable and readily undergoes violent change without detonating;

(ii) It reacts violently with water;

(iii) It forms potentially explosive mixtures with water;

(iv) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(v) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between 2 and 12.5 can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment;

(vi) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement;

(vii) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure; or

(viii) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53, or a Class B explosive as defined in 49 CFR 173.88.

(b) A solid waste that exhibits the characteristic of reactivity ((~~shall~~)) will be designated DW, and ((~~shall~~)) will be assigned the dangerous waste number of D003.

(8) Toxicity characteristic.

(a) A solid waste exhibits the toxicity characteristic if, using the *Toxicity Characteristic Leaching Procedure* (TCLP, found in Appendix II of 40 CFR Part 261, which is adopted by reference, or available upon request from the department) or equivalent methods approved by the department under WAC 173-303-110(5), the extract from a representative sample of the waste contains any of the contaminants listed in the toxicity characteristic list in (c) of this subsection, at concentrations equal to or greater than the respective value given in the list. When the waste contains less than 0.5 percent filterable solids, the waste itself, after filtering using the methodology outlined in the TCLP, is considered to be the extract for the purpose((~~s~~)) of this subsection.

(b) A solid waste that exhibits the toxicity characteristic has the dangerous waste number specified in the list which corresponds to the toxic contaminant causing it to be dangerous.

(c) Toxicity characteristic list. ((~~Two levels of concentration are established for the contaminants listed. Any waste containing one or more contaminants with concentrations at or above the EHW threshold shall cause that waste to be designated EHW.~~)) Any waste ((~~containing~~)) that contains contaminants which occur at concentrations at or above the DW threshold ((~~only (i.e., no EHW contaminants), shall~~)) will be designated DW.

TOXICITY CHARACTERISTICS LIST:

Maximum Concentration of Contaminants for the Toxicity Characteristic

Dangerous Waste Number	Contaminant	(Chemical Abstracts Services #)	((~~EHW~~)) ((~~mg/L~~))	DW (mg/L)
D004	Arsenic	(7440-38-2)	((~~500~~))	5.0
D005	Barium	(7440-39-3)	((~~10,000~~))	100.0
D018	Benzene	(71-43-2)	((~~50~~))	0.5
D006	Cadmium	(7440-43-9)	((~~100~~))	1.0
D019	Carbon tetrachloride	(56-23-5)	((~~50~~))	0.5
D020	Chlordane	(57-74-9)	((~~3.0~~))	0.03
D021	Chlorobenzene	(108-90-7)	((~~10,000~~))	100.0
D022	Chloroform	(67-66-3)	((~~600~~))	6.0
D007	Chromium	(7440-47-3)	((~~500~~))	5.0
D023	o-Cresol	(95-48-7) /1/	((~~20,000~~))	200.0
D024	m-Cresol	(108-39-4) /1/	((~~20,000~~))	200.0
D025	p-Cresol	(106-44-5) /1/	((~~20,000~~))	200.0
D026	Cresol	/1/	((~~200.0~~))	200.0
D016	2,4-D	(94-75-7)	((~~1,000~~))	10.0
D027	1,4-Dichlorobenzene	(106-46-7)	((~~750~~))	7.5
D028	1,2-Dichloroethane	(107-06-2)	((~~50~~))	0.5
D029	1,1-Dichloroethylene	(75-35-4)	((~~70~~))	0.7
D030	2,4-Dinitrotoluene	(121-14-2) /2/	((~~13~~))	0.13
D012	Endrin	(72-20-8)	((~~2~~))	0.02
D031	Heptachlor (and its epoxide)	(76-44-8)	((~~0.8~~))	0.008
D032	Hexachlorobenzene	(118-74-1) /2/	((~~13~~))	0.13
D033	Hexachlorobutadiene	(87-68-3)	((~~50~~))	0.5
D034	Hexachloroethane	(67-72-1)	((~~300~~))	3.0
D008	Lead	(7439-92-1)	((~~500~~))	5.0
D013	Lindane	(58-89-9)	((~~40~~))	0.4
D009	Mercury	(7439-97-6)	((~~20~~))	0.2
D014	Methoxychlor	(72-43-5)	((~~1,000~~))	10.0
D035	Methyl ethyl ketone	(78-93-3)	((~~20,000~~))	200.0
D036	Nitrobenzene	(98-95-3)	((~~200~~))	2.0
D037	Pentachlorophenol	(87-86-5)	((~~10,000~~))	100.0
D038	Pyridine	(110-86-1) /2/	((~~500~~))	5.0
D010	Selenium	(7782-49-2)	((~~100~~))	1.0
D011	Silver	(7440-22-4)	((~~500~~))	5.0
D039	Tetrachloroethylene	(127-18-4)	((~~70~~))	0.7
D015	Toxaphene	(8001-35-2)	((~~50~~))	0.5
D040	Trichloroethylene	(79-01-6)	((~~50~~))	0.5
D041	2,4,5-Trichlorophenol	(95-95-4)	((~~40,000~~))	400.0
D042	2,4,6-Trichlorophenol	(88-06-2)	((~~200~~))	2.0
D017	2,4,5-TP (Silvex)	(93-72-1)	((~~100~~))	1.0
D043	Vinyl chloride	(75-01-4)	((~~20~~))	0.2

/1/ If 0-, m-, and p-Cresol concentrations cannot be differentiated, the total cresol (D026) concentration is used. ((~~The DW level for total cresol is 200 mg/L and the EHW level for total cresol is 20,000 mg/L.~~))

/2/ Quantitation limit is greater than the calculated regulatory level. The quantitation limit therefore becomes the regulatory level.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-100 Dangerous waste criteria. (1) Purpose. The purpose of this section is to describe methods for determining if a solid waste is a dangerous waste by the criteria set forth in this section. The dangerous waste criteria consist of:

(a) Toxic dangerous wastes;

(b) Persistent dangerous wastes; and

(c) Carcinogenic dangerous wastes.

(2) References. The National Institute for Occupational Safety and Health's (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; Health Effects Assessment Summary Table, #PB 93-921199 and Integrated Risk Information System, #PB 915-913-31, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; and IARC Monographs, Oxford University Press, 2001 Evans Road, Cary, N.C. 27513 are adopted by reference.

(3) A person ((~~shall~~)) will use data which is available to him, and, when such data is inadequate for the purposes of this section, ((~~shall~~)) will refer to the NIOSH RTECS to determine:

(a) Toxicity data or toxic category for each known constituent in the waste;

(b) Whether or not each known constituent of the waste is a halogenated hydrocarbon or a polycyclic aromatic hydrocarbon with greater than three rings and less than seven rings.

(4) Quantity exclusion limit. A solid waste is a dangerous waste if it meets one or more of the dangerous waste criteria described in subsections (5), (6), and (7) of this section. If a person's solid waste meets one or more of these criteria then he ((~~shall~~)) will be a dangerous waste generator (and may not be considered a small quantity generator as provided in WAC 173-303-070(8)) if the quantity of the waste exceeds the following quantity exclusion limits:

(a) For toxic dangerous wastes designated as EHW (WT01), the quantity exclusion limit is 2.2 lbs. per month. ((~~NOTE: To be designated as EHW (WT01) toxic dangerous wastes must be generated above a specified quantity, which varies dependent upon the degree of toxicity, and which may be greater than 2.2 lbs.~~))

(b) For all other wastes designating under this section the quantity exclusion limit is 220 lbs. (100 kg) per month or per batch.

(5) Toxicity criteria. Except as provided in WAC 173-303-070 (4) or (5), a person ((~~shall~~)) must determine if a solid waste meets the toxicity criteria under this section by following either the instructions for book designation, when his knowledge of the waste is sufficient, or by testing the waste using the biological testing methods adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070 (4) or (5), if a person knows only some of the toxic constituents in the waste or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for toxicity under this subsection.

(b) Book designation procedure. A person may determine if a waste meets the toxicity criteria by following the book designation instructions as follows:

(i) A person ((~~shall~~)) must determine the toxic category for each known constituent. The toxic category for each constituent may be determined from available data, or by obtaining data from the NIOSH RTECS and checking this data against the toxic category table, below. If data is available for more than one of the ((~~four~~)) toxicity criteria (((~~aquatic,~~)) fish, oral, inhalation, or dermal), then the data indicating severest toxicity ((~~shall~~)) will be used, and the most acutely toxic category ((~~shall~~)) will be assigned to the constituent. If the NIOSH RTECS or other data sources do not agree on the same category, then the category arrived at using the NIOSH RTECS will be used to determine the toxic category. If toxicity data for a constituent cannot be found in the NIOSH RTECS, or other source reasonably available to a person, then the toxic category need not be determined for that constituent.

TOXIC CATEGORY TABLE

Toxic Category	((~~TLm_{96} (Fish)~~)) ((~~or, Aquatic~~)) ((~~(+)~~))Fish((~~(-)~~)) ((~~LC_{50} (ppm)~~)) LC_{50}(mg/L)*	Oral (Rat) LD_{50}(mg/kg)	Inhalation (Rat) LC_{50}(mg/L)	Dermal (Rabbit) LD_{50}(mg/kg)
X	((~~<.1~~)) <0.01	<.5	<.02	< 2
A	((~~.1 - <1~~)) 0.01 - <0.1	.5 - <5	.02 - <.2	2 - <20
B	((~~1 - <10~~)) 0.1 - <1	5 - <50	.2 - <2	20 - <200
C	((~~10 - <100~~)) 1 - <10	50 - <500	2 - <20	200 - <2000
D	((~~100 - 1000~~)) 10 - 100	500 - 5000	20 - 200	2000 - 20,000

* The LC_{50} data must be from an exposure period greater than or equal to twenty-four hours. LC_{50} data from any species is acceptable, however, if salmonid LC_{50} data is available it will supersede all other fish data. If salmonid data is unavailable but fathead minnow data is available, it will supersede all other fish species data.

(ii) A person whose waste contains one or more toxic constituents ((~~shall~~)) will determine the equivalent concentration for the waste from the following formula:

$$\text{Equivalent Concentration}(\%) = \Sigma X\% + \frac{\Sigma A\%}{10} + \frac{\Sigma B\%}{100} + \frac{\Sigma C\%}{1000} + \frac{\Sigma D\%}{10{,}000}$$

where Σ(X,A,B,C, or D)% is the sum of all the concentration percentages for a particular toxic category.

Example 1. A person's waste contains: Aldrin (X Category) - .01%; ((~~Diuron~~)) Endrin (B Category) - 1%; Benzene (C Category) - 4%; Phenol (C Category) - 2%; Cyclohexane (C Category) - 5%; Water (nontoxic) - 87%. The equivalent concentration (E.C.) would be:

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$$\text{E.C. (\%)} = \underline{0.01\%} + \frac{0\%}{10} + \frac{1\%}{100} + \frac{(4\% + 2\% + 5\%)}{1000} + \frac{0\%}{10{,}000}$$

$$= \underline{0.01\%} + 0\% + \underline{0.01\%} + \underline{0.011\%} + 0\% = \underline{0.031\%}$$

So the equivalent concentration equals .031%.

(iii) A person whose waste contains toxic constituents ((~~shall~~)) will determine its designation ((~~from the toxic dangerous waste graph in WAC 173-303-9906 by finding the equivalent concentration percentage for the waste along the abscissa, finding the total waste quantity along the ordinate, and plotting the point on the graph where the horizontal line drawn from the total waste quantity intersects the vertical line drawn from the waste's equivalent concentration. If the plotted point is in the area marked DW, the person shall designate the waste as DW, and shall assign the dangerous waste number of WT02; if the plotted point is in the area marked EHW, the person shall designate the waste as EHW, and shall assign the dangerous waste number of WT01~~)) according to the value of the equivalent concentration:

(A) If the equivalent concentration is less than 0.001%, the waste is not a toxic dangerous waste; or

(B) If the equivalent concentration is equal to or greater than 0.001% and less than or equal to 0.1%, the person will designate the waste as DW and assign the dangerous waste number WT02; and

(C) If the equivalent concentration is equal to or less than 0.01%, the DW may also be a special waste; or

(D) If the equivalent concentration is greater than 0.1%, the person will designate the waste as EHW and assign the dangerous waste number WT01.

Example 1. Continued. The equivalent concentration of 0.031% (from Example 1. above) is greater than 0.001% and less than 0.1%. The waste is DW and the dangerous waste number WT02 must be assigned. Since 0.031% is also greater than 0.01%, the waste is not a special waste.

(iv) ((~~Toxic dangerous waste graph. The toxic dangerous waste graph appears in WAC 173-303-9906.~~)) Reserve.

(c) Designation from bioassay data. A person may determine if a waste meets the toxicity criteria by following the bioassay designation instructions ((~~as follows~~)) of either:

(i) ((~~A person shall establish the toxicity category range (D category toxicity, or C category or greater toxicity) of a waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3).~~)) The DW bioassay. To determine if a waste is DW, a person will establish the toxicity category range (D category toxicity or greater toxicity) of a waste by means of the 100 mg/L acute static fish test or the 5000 mg/kg oral rat test, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). If data from the test indicates that the waste is DW, then the person will assign the dangerous waste number WT02. Otherwise, the waste is not regulated as toxic dangerous waste. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to determine whether the waste is special waste or EHW in the case of state-only solid dangerous waste, if the person chooses to determine whether the waste is special waste; or

(ii) ((~~A person shall designate a waste according to the toxic dangerous waste designation table below.~~)) The EHW and special waste bioassay. To determine if a waste is EHW, a person will establish the toxicity category range of a waste by means of the fish bioassay at 10 mg/L or the rate bioassay at 50 mg/L, as described in the biological testing methods (bioassay) adopted in WAC 173-303-110(3). (NOTE: A fish bioassay at 1 mg/L corresponds with the proposed definition of EHW, which includes toxic categories X-B, however, the fish bioassay is not reproducible at these low levels.) If data from the test indicates that the waste is EHW, then the person will assign the dangerous waste number WT01. Otherwise, the waste will be designated DW, and the person will assign the dangerous waste number WT02. A person with state-only solid waste may choose to test a waste to determine if it is special waste. Testing levels for special waste must be at 10 mg/L for the fish bioassay or 500 mg/L for the oral rat bioassay. No further testing must be done except as provided in WAC 173-303-070 (4) and (5), or if the person chooses to test the waste in accordance with WAC 173-303-100 (5)(c)(i) to determine if the waste is not regulated as toxic dangerous waste.

((~~TOXIC DANGEROUS WASTE DESIGNATION TABLE~~

~~If your waste's toxicity range is . . .~~	~~And your monthly or batch waste quantity is . . .~~	~~Then your waste's designation, and waste # are . . .~~
~~D Category: (LC_{50} 1000 mg/L to 100 mg/L, or LD_{50} 5000 mg/kg to 500 mg/kg)~~	~~Any quantity~~	~~DW, WT02~~
~~X, A, B, or C (LC_{50} less than 100 mg/L, or LD_{50} less than 500 mg/kg)~~	~~Less than 220 lbs. (100 kg)~~	~~DW, WT02~~
	~~Greater than or equal to 220 lbs. (100 kg)~~	~~EHW, WT01~~

))

(d) If the designation acquired from book designation and bioassay data do not agree, then bioassay data will be used to designate a waste. If a waste is designated as DW or EHW following the book designation procedure, a person may test the waste by means of the biological testing methods (bioassay) adopted under WAC 173-303-110(3), using both static acute fish and acute oral rat methods, to demonstrate that the waste is not a dangerous waste or should be designated as DW and not EHW.

(e) A waste designated as DW by toxicity criteria ((~~shall~~)) will be assigned the dangerous waste number of WT02. A waste designated as EHW by toxicity criteria ((~~shall~~)) will be assigned the dangerous waste number of WT01.

(6) Persistence criteria. For the purposes of this section, persistent constituents are chemical compounds which are either halogenated hydrocarbons (HH), or polycyclic aromatic hydrocarbons (PAH), as defined under WAC 173-303-040.

Except as provided in WAC 173-303-070 (4) or (5), a person may determine the identity and concentration of persistent constituents by either applying knowledge of the waste or by testing the waste according to the chemical testing methods for complying with the dangerous waste regulation adopted under WAC 173-303-110(3).

(a) Except as provided in WAC 173-303-070 (4) and (5), if a person knows only some of the persistent constituents in the waste, or only some of the constituent concentrations, and if the waste is undesignated for those known constituents or concentrations, then the waste is not designated for persistence under this subsection.

(b) When a waste contains one or more halogenated hydrocarbons (HH) for which the concentrations are known, the total halogenated hydrocarbon concentration ((~~shall~~)) will be determined by summing the concentration percentages for all of the halogenated hydrocarbons for which the concentrations are known.

Example 2. A waste contains: Carbon tetrachloride - .009%; DDT - .012%; 1,1,1 - trichloroethylene - .020%. The total halogenated hydrocarbon concentration would be:

Total HH Concentration (%) = .009% + .012% + .020% = .041%

(c) ((~~A person whose waste contains one or more polycyclic aromatic hydrocarbons (PAH) with more than three rings and less than seven rings for which the concentrations are known shall determine the total polycyclic aromatic hydrocarbon concentration by summing the concentration percentages for all of those polycyclic aromatic hydrocarbons with more than three rings and less than seven rings about which he knows the concentration in the waste.~~)) A person whose waste contains polycyclic aromatic hydrocarbons (PAH) as defined in WAC 173-303-040, will determine the total PAH concentration by summing the concentration percentages of each of the polycyclic aromatic hydrocarbons for which they know the concentration.

Example 3. A person's waste contains: Chrysene - .08%; 3,4 - benzo[a]pyrene - 1.22%. The total polycyclic aromatic hydrocarbon concentration would be:

Total PAH Concentration (%) = .08% + 1.22% = 1.30%

(d) A person whose waste contains halogenated hydrocarbons and/or polycyclic aromatic hydrocarbons ((~~shall~~)) will determine its designation from the persistent dangerous waste table or persistent dangerous waste criteria graph WAC 173-303-9907.

PERSISTENT DANGEROUS WASTE TABLE

If your waste contains. . .	At a total concentration level of. . .	Then your waste's designation, and waste # are. . .
Halogenated Hydrocarbons (HH)	0.01% to 1.0%	DW, WP02
	greater than 1.0%	EHW, WP01
Polycyclic Aromatic Hydrocarbons (PAH)	greater than 1.0%	EHW*, ((~~WP01~~)) WP03

* No DW concentration level for PAH.

(7) ((~~Carcinogenic criteria.~~

~~(a) Criteria. For the purposes of this section, a carcinogenic substance shall be a substance which has sufficient or limited evidence as a human or animal carcinogen as listed in both:~~

~~(i) The National Institute for Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS) as an International Agency for Research on Cancer (IARC) carcinogen; and~~

~~(ii) The Integrated Risk Information System (IRIS) or Health Effects Assessment Summary Table (HEAST).~~

~~(iii) A list of carcinogenic substances is available from the department. Any IARC identified substance that is an inorganic, respiratory carcinogen shall be a carcinogenic substance only if it occurs in a friable format (i.e., if it is in a waste which easily crumbles and forms dust which can be inhaled). Any IARC human or animal, sufficient or limited carcinogen that is so rated because of studies involving implantation of the substance into test animals as the sole cause for the carcinogenic IARC rating, shall not be a carcinogenic substance. This additional information is available in the IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans.~~

~~(b) Except as provided in WAC 173-303-070 (4) and (5), if a person knows only some of the carcinogenic substances in the waste, or only some of the substance concentrations, and if the waste is undesignated for those known substances or concentrations, then the waste is not designated for carcinogens under this subsection.~~

~~(c) Designation. A solid waste that contains one or more carcinogenic substances shall be designated DW and assigned the waste number of WC02 if either,~~

~~(i) The concentration of any one carcinogenic substance exceeds 0.01% of the waste quantity; or~~

~~(ii) The total concentration summed for all carcinogenic substances exceeds 1.0% of the waste quantity.~~)) Reserve.

AMENDATORY SECTION (Amending Order 93-34, filed 5/23/94, effective 6/23/94)

WAC 173-303-104 Generic dangerous waste numbers. (1) Purpose. This section sets forth the dangerous waste number for each of the dangerous waste criteria designations.

(2) Characteristics. A waste which exhibits any of the dangerous waste characteristics, WAC 173-303-090, ((~~shall~~)) will be assigned the dangerous waste number corresponding to the characteristic(s) exhibited by the waste.

(3) Criteria. The following table ((~~shall~~)) will be used for assigning dangerous waste numbers to wastes designated by the dangerous waste criteria ((~~or by~~)) at WAC ((~~173-303-084~~)) 173-303-100.

GENERIC DANGEROUS WASTE NUMBERS TABLE

Dangerous Waste#	Dangerous Waste Criteria and Designation
	Toxic Dangerous Wastes
WT01----------	EHW
WT02----------	DW
	Persistent Dangerous Wastes Halogenated Hydrocarbons
WP01----------	EHW
WP02----------	DW

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WP03----------	Polycyclic Aromatic Hydrocarbons EHW
~~WC02~~	((~~Carcinogenic Dangerous Wastes DW~~))

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-110 Sampling and testing methods. (1) Purpose. This section describes the testing methods which may be used in the process of designating a dangerous waste. Quality control procedures specified by the testing method or an approved equivalent method must be followed for the analytical result to be considered valid for designation.

(2) Representative samples.

(a) The methods and equipment used for obtaining representative samples of a waste will vary with the type and form of the waste. The department will consider samples collected using the sampling methods below or the most recent version of such methods for wastes with properties similar to the indicated materials, to be representative samples of the wastes:

(i) Crushed or powdered material - ASTM Standard D346-75;

(ii) Extremely viscous liquid - ASTM Standard D140-70;

(iii) Fly ash-like material - ASTM Standard D2234-86;

(iv) Soil-like material - ASTM Standard D1452-((~~65~~)) 80 (Reapproved 1990);

(v) Soil or rock-like material - ASTM Standard D420-((~~69~~)) 93;

(vi) Containerized liquid wastes - "COLIWASA" described in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,* SW-846, revised July 1982, as amended by Update 1 (April 1984) and Update 2 (April 1985); and,

(vii) Liquid waste in pits, ponds, lagoons, and similar reservoirs - "Pond Sampler" described in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods,* SW-846, revised July 1982, as amended by Update 1 (April 1984) and Update 2 (April 1985).

(b) Copies of these representative sampling methods are available from the department except for the ASTM standards which can be obtained by writing to:

ASTM
1916 Race Street
Philadelphia, PA 19103.

(3) Test procedures. Copies of the test procedures listed in this subsection can be obtained by writing to the appropriate address below:

For copies of ((~~WDOE~~)) Ecology test methods:

Attn: Test Procedures
Hazardous Waste Section
Department of Ecology
PO Box 47600
Olympia, Washington 98504-7600

For copies of SW 846 and 40 CFR Part 261:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

For copies of ASTM methods:

ASTM
1916 Race Street
Philadelphia, PA 19103

For copies of APTI methods:

APTI
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161

The document titles and included test procedures are as follows:

(a) *Chemical Testing Methods for Complying with the state of Washington Dangerous Waste Regulation,* March 1982, revised July 1983, March 1984, and May 1993 describing methods for testing:

(i) Ignitability;

(ii) Corrosivity, including the addendum, *Test Method for Determining pH of Solutions in Contact with Solids,* March 1984;

(iii) Reactivity;

(iv) Toxicity characteristic leaching procedure;

(v) Halogenated hydrocarbons; and

(vi) Polycyclic aromatic hydrocarbons;

(b) *Biological Testing Methods,* the latest revision, describing procedures for:

(i) Static acute fish toxicity test; and

(ii) Acute oral rat toxicity test;

(c) *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846* (Third Edition, ((~~1993~~)) September, 1986 as amended by Update I (August, 1993) and Update II (January, 1995)) is adopted by reference. This includes:

(i) Method 9095 (Paint Filter Liquids Test), demonstrating the absence or presence of free liquids in either a containerized or bulk waste;

(ii) Reserved;

(d) 40 CFR Part 261 Appendix X is adopted by reference for the purpose of analysis for chlorinated dibenzo-p-dioxins and dibenzofurans;

(e)(i) The determination of Polychlorinated Biphenyls in Transformer Fluids and Waste Oils, EPA-600/4-81-045; and

(ii) Analysis of Polychlorinated Biphenyls in Mineral Insulating Oils by Gas Chromatography, ASTM Standard D 4059-86.

(f) 40 CFR Part 261 Appendix III *Chemical Analysis Test Methods*, which lists sampling and analysis methods contained in *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, SW-846,* ((~~is~~)) and 40 CFR Part 261 Appendix II, *Method 1311 Toxicity Characteristic Leaching Procedure* are adopted by reference.

(g) The following publications for air emission standards are incorporated by reference.

(i) ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography, ASTM Standard D 1946-82.

(ii) ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method), ASTM Standard D 2382-83.

(iii) ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis, ASTM Standard E 169-87.

(iv) ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis, ASTM Standard E 168-88.

(v) ASTM Standard Practice for Packed Column Gas Chromatography, ASTM Standard E 260-85.

(vi) ASTM Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography, ASTM Standard D 2267-88.

(vii) ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope, ASTM Standard D 2879-86.

(viii) APTI Course 415: Control of Gaseous Emissions, EPA Publication EPA-450/2-81-005, December 1981.

(4) Substantial changes to the testing methods described above ((~~shall~~)) will be made only after the department has provided adequate opportunity for public review and comment on the proposed changes. The department may, at its discretion, schedule a public hearing on the proposed changes.

(5) Equivalent testing methods. Any person may request the department to approve an equivalent testing method by submitting a petition, prepared in accordance with WAC 173-303-910(2), to the department.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-120 Recycled, reclaimed, and recovered wastes. (1) This section describes the requirements for persons who recycle materials that are solid wastes and dangerous. Except as provided in subsections (2) and (3) of this section, dangerous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsection (4) of this section. Dangerous wastes that are recycled will be known as "recyclable materials."

(2)(a) The following recyclable materials are solid wastes and sometimes are dangerous wastes. However, they are subject only to the requirements of (b) of this subsection, WAC 173-303-050, 173-303-145 and 173-303-960:

(i) Industrial ethyl alcohol that is reclaimed;

(ii) Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;

(iii) Used oil that exhibits one or more of the characteristics or criteria of dangerous waste and is recycled in some manner other than:

(A) Being burned for energy recovery; or

(B) Being used in a manner constituting disposal((~~, except when such use is by the generator on his own property~~));

(iv) Scrap metal;

(v) Fuels produced from the refining of oil-bearing dangerous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;

(vi) Oil reclaimed from dangerous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;

(vii) Coke and coal tar from the iron and steel industry that contains dangerous waste from the iron and steel production process;

(viii)(A) Dangerous waste fuel produced from oil-bearing dangerous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such dangerous wastes, where such dangerous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under WAC 173-303-515 (1)(d) or chapter 173-354 WAC and so long as no other dangerous wastes are used to produce the dangerous waste fuel;

(B) Dangerous waste fuel produced from oil-bearing dangerous waste from petroleum refining production, and transportation practices, where such dangerous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under WAC 173-303-515 (1)(d) or chapter 173-354 WAC; and

(C) Oil reclaimed from oil-bearing dangerous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under WAC 173-303-515 (1)(e) or chapter 173-354 WAC; and

(ix) Petroleum coke produced from petroleum refinery dangerous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exhibits one or more of the characteristics of dangerous waste in WAC 173-303-090.

(b) Any recyclable material listed in (a) of this subsection will be subject to the applicable requirements listed in subsection (4) of this section if the department determines, on a case-by-case basis, that:

(i) It is being accumulated, used, reused, or handled in a manner that poses a threat to public health or the environment; or

(ii) Due to the dangerous constituent(s) in it, any use or reuse would pose a threat to public health or the environment. Such recyclable material will be listed in WAC 173-303-016(6).

(3) The following recyclable materials are not subject to the requirements of this section but are subject to the requirements of WAC 173-303-070 through 173-303-110, 173-303-160, 173-303-500 through 173-303-525, and all applicable provisions of WAC 173-303-800 through 173-303-840:

(a) Recycling requirements for state-only dangerous wastes (see WAC 173-303-500);

(b) Recyclable materials used in a manner constituting disposal (see WAC 173-303-505);

(c) Spent CFC or HCFC refrigerants that are recycled on-site or sent to be reclaimed off-site (see WAC 173-303-506);

(d) Dangerous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670 (see WAC 173-303-510);

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(e) Used oil that is burned for energy recovery in boilers and industrial furnaces that are not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, if such used oil:

(i) Exhibits one or more of the characteristics of a dangerous waste; or

(ii) Is designated as DW solely through WAC 173-303-100; or

(iii) Is designated solely as W001, (see WAC 173-303-515 or chapter 173-354 WAC);

(f) Spent lead-acid batteries that are being reclaimed (see WAC 173-303-520);

(g) Recyclable materials from which precious metals are reclaimed (see WAC 173-303-525).

(4) Those recycling processes not specifically discussed in subsections (2) and (3) of this section are generally subject to regulation only up to and including storage prior to recycling. For the purpose of this section, recyclable materials received from off-site ((~~shall~~)) will be considered stored unless they are moved into an active recycling process within twenty-four hours after being received. An active recycling process refers to a dynamic recycling operation that occurs within a recycling unit such as a distillation or centrifuge unit. The phrase does not refer to passive storage-like activities that occur, for example, when tanks or containers are used for phase separation or for settling impurities. Passive storage-like activities are not eligible for the recycling exemption under this subsection.

The recycling process itself is generally exempt from regulation unless the department determines, on a case-by-case basis, that the recycling process poses a threat to public health or the environment.

Unless specified otherwise in subsections (2) and (3) of this section:

(a) Generators of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-170 through 173-303-230;

(b) Transporters of recyclable materials are subject to all applicable requirements of this chapter including, but not limited to, WAC 173-303-240 through 173-303-270;

(c) Owners or operators of facilities that receive recyclable materials from off-site and recycle these recyclable materials without storing them before they are recycled are subject to the following requirements:

(i) WAC 173-303-060,

(ii) WAC 173-303-120 (4)(e),

(iii) WAC 173-303-283 through 173-303-290,

((~~(iii)~~)) (iv) WAC 173-303-310 through 173-303-395,

((~~(iv)~~)) (v) WAC 173-303-630 (2) through (10), and

((~~(v)~~)) (vi) WAC 173-303-640 (2) through (10), except 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section). In lieu of the dates in WAC 173-303-640 (2) and (4), for existing tank systems regulated under this subsection, owners and operators must complete the assessment of the tank system's integrity by June 1, 1992, and must meet the secondary containment requirements of WAC 173-303-640(4) by January 12, 1993;

((~~(vi)~~)) (vii) The owner or operator must obtain data, by screening-type analysis if necessary, confirming the designation of each waste stream, such that each dangerous waste received can be effectively recycled without jeopardizing human health or the environment. The owner or operator must verify the waste designation periodically, so that it is accurate and current, but at least once every six months or on a batch basis if shipments of a specific waste stream are less frequent. Copies of all analyses and data must be retained for at least five years and made available to the department upon request.

(d) Owners or operators of facilities that store recyclable materials before they are recycled are subject to the following requirements including, but not limited to:

(i) For all recyclers, the applicable provisions of:

(A) WAC 173-303-280 through 173-303-395,

(B) WAC 173-303-800 through 173-303-840,

(C) WAC 173-303-140 (2)(a),

(D) WAC 173-303-690 through 173-303-691 (WAC 173-303-400(3) for interim status), and

(E) The recycling process itself is generally exempt from regulation except as provided at WAC 173-303-120(4)(e);

(ii) For recyclers with interim status permits, the applicable storage provisions of WAC 173-303-400 including Subparts F through L of 40 CFR Part 265;

(iii) For recyclers with final facility permits, the applicable storage provisions of:

(A) WAC 173-303-600 through 173-303-650, and

(B) WAC 173-303-660.

(e) Owners and operators of facilities subject to dangerous waste permitting requirements with dangerous waste management units that recycle hazardous wastes are subject to the requirements of WAC 173-303-690 and 173-303-691 (Air emission standards for process vents and equipment leaks) for final status facilities, and 40 CFR Part 265 Subparts AA and BB, incorporated by reference at WAC 173-303-400(3) for interim status facilities.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-140 Land disposal restrictions. (1) Purpose.

(a) The purpose of this section is to encourage the best management practices for dangerous wastes according to the priorities of RCW 70.105.150 which are, in order of priority:

(i) Reduction;

(ii) Recycling;

(iii) Physical, chemical, and biological treatment;

(iv) Incineration;

(v) Stabilization and solidification; and

(vi) Landfill.

(b) This section identifies dangerous wastes that are restricted from land disposal, describes requirements for restricted wastes, and defines the circumstances under which a prohibited waste may continue to be land disposed.

(c) For the purposes of this section, the term "landfill," as stated in the priorities of RCW 70.105.150, ((~~shall~~)) will be the same as the term "land disposal." Land disposal will be used in this section to identify the lowest waste management priority.

(2) Applicability.

The land disposal restrictions of this section apply to any person who owns or operates a dangerous waste treatment, storage, or disposal facility in Washington state and to any person who generates or transports dangerous waste.

(a) Land disposal restrictions for wastes designated in accordance with WAC 173-303-070 (3)(a)(i), (ii), and (iii) ((~~shall~~)) will be the restrictions set forth by the Environmental Protection Agency in 40 CFR Part 268 which are incorporated by reference into this regulation and the restrictions set forth in subsections (3) through (7) of this section. The words "regional administrator" (in 40 CFR) will mean the "department." The exemption and exception provisions of subsections (3) through (7) are not applicable to the federal land disposal restrictions.

(b) Land disposal restrictions for state-only dangerous waste ((~~shall~~)) will be the restrictions set forth in subsections (3) through (7) of this section.

(3) Definitions.

When used in this section the following terms have the meaning provided in this subsection. All other terms have the meanings given under WAC 173-303-040.

(a) "Dangerous waste constituents" means those constituents listed in WAC 173-303-9905 and any other constituents which have caused a waste to be a dangerous waste under this chapter.

(b) "Land disposal" means placement in a facility or on the land with the intent of leaving the dangerous waste at closure, and includes, but is not limited to, placement for disposal purposes in a: Landfill; surface impoundment; waste pile; injection well; land treatment facility; salt dome or salt bed formation; underground cave or mine; concrete vault or bunker.

(c) "Organic/carbonaceous waste" means a dangerous waste that contains combined concentrations of greater than ten percent organic/carbonaceous constituents in the waste; organic/carbonaceous constituents are those substances that contain carbon-hydrogen, carbon-halogen, or carbon-carbon chemical bonding.

(d) "Solid acid waste" means a dangerous waste that exhibits the characteristic of low pH under the corrosivity tests of either WAC 173-303-090 (6)(a)(ii) or (iii).

(e) "Stabilization" and "solidification" mean a technique that limits the solubility and mobility of dangerous waste constituents. Solidification immobilizes a waste through physical means and stabilization immobilizes the waste by bonding or chemically reacting with the stabilizing material.

(4) Land disposal restrictions and prohibitions. The land disposal requirements of this subsection apply to land disposal in Washington state.

(a) Disposal of extremely hazardous waste (EHW). No person ((~~shall~~)) will land dispose of EHW, except as provided in subsection (5) of this section, at any land disposal facility in the state. No person ((~~shall~~)) will land dispose of EHW at the facility established under RCW 70.105.050, except as provided by subsections (5), (6), and (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process EHW to remove or reduce its harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(b) Disposal of liquid waste. Special requirements for ((~~the disposal of liquid waste in landfills~~)) bulk and containerized liquids.

(i) ((~~Bulk or noncontainerized liquid waste or waste containing free liquids must not be placed in a landfill unless, before disposal, the liquid waste or waste containing free liquids is treated so that free liquids are no longer present.~~)) Effective May 8, 1985, the placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.

(ii) Containers holding free liquids must not be placed in a landfill unless:

(A) All free-standing liquid:

(I) Has been removed by decanting, or other methods; or

(II) Has been mixed with ((~~absorbent~~)) sorbent or stabilized (solidified) so that free-standing liquid is no longer observed; or

(III) Has been otherwise eliminated; or

(B) The container is very small, such as an ampule; or

(C) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(D) The container is a lab pack and is disposed of in accordance with WAC 173-303-161 and this chapter.

(iii) To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following tests must be used: Method 9095 (Paint Filter Liquids Test) as described in Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods. (EPA Publication No. SW-846.)

(iv) Sorbents used to treat free liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are: Materials listed or described in (b)(iv)(A) of this subsection; materials that pass one of the tests in (b)(iv)(B) of this subsection; or materials that are determined by the department to be nonbiodegradable through WAC 173-303-910.

(A) Nonbiodegradable sorbents.

(I) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites; calcium carbonate (organic free limestone); oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth; perlite (volcanic glass); expanded volcanic rock; volcanic ash; cement kiln dust; fly ash; rice hull ash; activated charcoal/activated carbon); or

(II) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological material or polymers specifically designed to be degradable; or

(III) Mixtures of these nonbiodegradable materials.

(B) Tests for nonbiodegradable sorbents.

(I) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70 (1984a)-Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi; or

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(II) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria.

(v) Effective November 8, 1985, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the department, or the department determines, that:

(A) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(B) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in 40 CFR Section 144.3.)

(c) Disposal of solid acid waste. No person ((~~shall~~)) will land dispose solid acid waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, neutralize, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter.

(d) Disposal of organic/carbonaceous waste.

(i) No person ((~~shall~~)) will land dispose organic/carbonaceous waste, except as provided in subsections (5), (6), or (7) of this section. A person is encouraged to reclaim, recycle, recover, treat, detoxify, or otherwise process these wastes to remove or reduce their harmful properties or characteristics, provided that such processing is performed in accordance with the requirements of this chapter. Organic/carbonaceous wastes must be incinerated as a minimum management method according to the dangerous waste management priorities as defined in subsection (1)(a) of this section.

(ii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to black mud generated from the caustic leach recovery of cryolite at primary aluminum smelting plants.

(iii) This prohibition against the land disposal of organic/carbonaceous waste does not apply to any person who certifies to the department that recycling, treatment and incineration facilities are not available within a radius of one thousand miles from Washington state's borders. Such certification must be sent to the department by certified mail and must include: The name, address and telephone number of the person certifying; a brief description of the organic/carbonaceous waste covered by the certification; a discussion of the efforts undertaken to identify available recycling, treatment and incineration facilities; and the signature of the person responsible for the certification and development of information used to support the certification. Records and information supporting the certification must be retained by the certifying person and must be made available to the department upon request.

A certification that has been properly submitted to the department will remain valid until the department determines that a recycling, treatment or incineration facility is available within a radius of one thousand miles from Washington state's borders and the person who submitted the certification is unable to demonstrate otherwise. A recycling, treatment or incineration facility will be considered by the department to be available if such facility: Is operating, and; can safely and legally recycle, treat or incinerate the organic/carbonaceous waste, and; has sufficient capacity to receive and handle significant amounts of the waste, and; agrees to accept the waste.

(5) Treatment in land disposal facilities. The land disposal restrictions in subsection (4) of this section do not apply to persons treating dangerous wastes in surface impoundments, waste piles, or land treatment facilities provided that such treatment is performed in accordance with the requirements of this subsection and this chapter.

(a) Surface impoundment treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in surface impoundments for purposes of treatment provided the owner/operator can demonstrate that effective treatment of the dangerous waste constituents will occur and at closure the owner/operator complies with the prohibitions and restrictions of subsection (4) of this section.

(b) Waste pile treatment.

Liquid waste, extremely hazardous waste (EHW), solid acid waste, and organic/carbonaceous waste may be placed in waste piles for purposes of treatment provided the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur and that at closure the owner/operator will be in compliance with the prohibitions and restrictions of subsection (4) of this section.

(c) Land treatment.

Liquid waste, extremely hazardous waste (EHW), and organic/carbonaceous waste may be land treated provided that the owner/operator can demonstrate that effective treatment of dangerous waste constituents will occur, and at the end of the post-closure care period the owner/operator will be in compliance with subsection (4) of this section.

(6) Case-by-case exemptions to a land disposal prohibition. Any person may petition the department for an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste. The procedures to submit a petition to the department are specified in WAC 173-303-910(6). The department may deny any petition if it determines that there is a potential for dangerous waste constituents to migrate from the land disposal facility where the waste is to be placed. The department will deny any petition when exemption would result in a substantial or imminent threat to public health or the environment. The department will deny any petition when exemption would result in a violation of applicable state laws.

The department may grant an exemption from the prohibitions and restrictions of subsection (4) of this section based on the demonstrations specified in (a), (b) or (c) of this subsection.

(a) Land disposal exemption for treatment residuals. Any person may request an exemption from a land disposal prohibition in subsection (4) of this section for treatment residuals by demonstrating to the department that:

(i) The person has applied the best achievable management method to the original waste; and

(ii) Application of additional management methods to the treatment residuals would prevent the person from

utilizing the best achievable management methods for the original dangerous waste; and

(iii) The land disposal of the treatment residuals does not pose a greater risk to the public health and the environment than land disposal of the original dangerous waste would pose.

(b) Economic hardship exemption. Any person may request an exemption from a prohibition in subsection (4) of this section for the land disposal of a dangerous waste by demonstrating to the department that alternative management of the dangerous waste will impose an unreasonable economic burden in relation to the threat of harm to public health and the environment. It will be solely within the discretion of the department to approve or deny the requests for exemptions based on economic hardship.

(c) Organic/carbonaceous waste exemption. Any person may request an exemption from the requirements in subsection (4) of this section by demonstrating to the department that:

(i) Alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization or landfilling; or

(ii)(A) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or contains greater than sixty-five percent water or other noncombustible moisture; and

(B) Incineration is the only management method available within a radius of one thousand miles from Washington state's border (i.e., recycling or treatment are not available).

(7) Emergency cleanup provision. The department may, on a case-by-case basis, grant an exception to the land disposal restrictions in subsection (4) of this section for an emergency cleanup where an imminent threat to public health and the environment exists. Any exception will require compliance with applicable state law and will require (consistent with the nature of the emergency and imminent threat) application of the waste management priorities of RCW 70.105.150.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-141 Treatment, storage, or disposal of dangerous waste. (1) A person ((~~shall~~)) will only offer a designated dangerous waste to a TSD facility which is operating either: Under a permit issued pursuant to the requirements of this chapter; or, if the TSD facility is located outside of this state, under interim status or a permit issued by United States EPA under 40 CFR Part 270, or under interim status or a permit issued by another state which has been authorized by United States EPA pursuant to 40 CFR Part 271.

(2) A person may offer a state only designated dangerous waste (not regulated as a hazardous waste by EPA) to a facility which is located outside of this state and which does not meet the requirements of subsection (1) of this section if:

(a) The facility receiving the waste will legitimately treat or recycle the dangerous waste (disposal is an unacceptable management practice);

(b) The generator has on file a letter or copy of a letter signed by the regulatory authority in the receiving state that the receiving facility may accept the waste;

(c) The generator uses a transporter with a valid EPA/state identification number;

(d) The generator complies with all other applicable requirements, including manifesting, packaging and labeling, with respect to the shipping of the waste. However, the EPA/state identification number for the receiving facility is not required on the manifest or annual report; and

(e) The generator receives from the receiving facility a signed and dated copy of the manifest.

AMENDATORY SECTION (Amending Order 91-44, filed 7/8/92, effective 8/8/92)

WAC 173-303-145 Spills and discharges into the environment. (1) Purpose and applicability. This section sets forth the requirements for any person responsible for a spill or discharge of a dangerous waste or hazardous substance into the environment, except when such release is otherwise permitted under state or federal law. For the purposes of complying with this section, a transporter who spills or discharges dangerous waste or hazardous substances during transportation will be considered the responsible person. This section ((~~shall~~)) will apply when any dangerous waste or hazardous substance is intentionally or accidentally spilled or discharged into the environment (unless otherwise permitted) such that human health or the environment is threatened, regardless of the quantity of dangerous waste or hazardous substance.

(2) Notification. Any person who is responsible for a spill or nonpermitted discharge ((~~shall~~)) must immediately notify the individuals and authorities described for the following situations:

(a) For spills or discharges onto the ground or into groundwater or surface water, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, notify the appropriate regional office of the department of ecology;

(b) For spills or discharges which result in emissions to the air, notify all local authorities in accordance with the local emergency plan. If necessary, check with the local emergency service coordinator and the fire department to determine all notification responsibilities under the local emergency plan. Also, in western Washington notify the local air pollution control authority, or in eastern Washington notify the appropriate regional office of the department of ecology.

(3) Mitigation and control. The person responsible for a spill or nonpermitted discharge ((~~shall~~)) must take appropriate immediate action to protect human health and the environment (e.g., diking to prevent contamination of state waters, shutting of open valves).

(a) In addition, the person responsible for a spill or discharge ((~~shall~~)) must:

(i) Clean up all released dangerous wastes or hazardous substances, or take such actions as may be required or approved by federal, state, or local officials acting within the scope of their official responsibilities. This may include

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complete or partial removal of released dangerous wastes or hazardous substances as may be justified by the nature of the released dangerous wastes or hazardous substances, the human and environmental circumstances of the incident, and protection required by the Water Pollution Control Act, chapter 90.48 RCW;

(ii) Designate and treat, store or dispose of all soils, waters, or other materials contaminated by the spill or discharge in accordance with this chapter 173-303 WAC. The department may require testing in order to determine the amount or extent of contaminated materials, and the appropriate designation, treatment, storage, or disposal for any materials resulting from clean-up; and

(iii) If the property on which the spill or discharge occurred is not owned or controlled by the person responsible for the incident, restore the area impacted by the spill or discharge, and replenish resources (e.g., fish, plants) in a manner acceptable to the department.

(b) Where immediate removal or temporary storage of spilled or discharged dangerous wastes or hazardous substances is necessary to protect human health or the environment, the department may direct that removal be accomplished without a manifest, by transporters who do not have EPA/state identification numbers.

(4) Nothing in WAC 173-303-145 ((~~shall~~)) will eliminate any obligations to comply with reporting requirements which may exist in a permit or under other state or federal regulations.

AMENDATORY SECTION (Amending Order DE 81-33, filed 2/10/82)

WAC 173-303-150 Division, dilution, and accumulation. (1) Any action taken to evade the intent of this regulation by dividing or diluting wastes to change their designation shall be prohibited, except for the purposes of treating, neutralizing, or detoxifying such wastes.

(2) Separation of a homogeneous waste into heterogeneous phases (e.g., separation of a suspension into sludge and liquid phases, or of a solvent/water mixture into solvent and water phases, etc.) ((~~shall~~)) will not be considered as division, provided that the person generating the waste either:

(a) Designates the homogeneous waste before separation, and handles the entire waste accordingly; or

(b) Designates each phase of the heterogeneous waste, in accordance with the dangerous waste designation requirements of this chapter, and handles each phase accordingly.

(3) For the purposes of designation, quantities of continuously generated wastes ((~~shall~~)) must be summed monthly. All wastes generated less frequently than once a month ((~~shall~~)) will be considered as batch or single event wastes.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-160 Containers. (1) Waste quantity. Containers and inner liners ((~~shall~~)) will not be considered as a part of the waste when measuring or calculating the quantity of a dangerous waste. Only the weight of the residues in nonempty or nonrinsed containers or inner liners will be considered when determining waste quantities.

(2) A container or inner liner is "empty" when:

(a) All wastes in it have been taken out that can be removed using practices commonly employed to remove materials from that type of container or inner liner (e.g., pouring, pumping, aspirating, etc.) and, ((~~whichever quantity is least, either less~~)) no more than one inch of waste remains at the bottom of the container or inner liner, or the volume of waste remaining in the container or inner liner is equal to ((~~one~~)) three percent or less of the container's total capacity, or, if the container's total capacity is greater than one hundred ten gallons, the volume of waste remaining in the container or inner liner is no more than 0.3 percent of the container's total capacity. A container which held compressed gas is empty when the pressure inside the container equals or nearly equals atmospheric pressure; and

(b) If the container or inner liner held acutely hazardous waste, as defined in WAC 173-303-040, toxic EHW as defined in WAC 173-303-100 or pesticides bearing the danger or warning label, the container or inner liner has been rinsed at least three times with an appropriate cleaner or solvent. The volume of cleaner or solvent used for each rinsing ((~~shall~~)) must be ten percent or more of the container's or inner liner's capacity. In lieu of rinsing for containers that might be damaged or made unusable by rinsing with liquids (e.g., fiber or cardboard containers without inner liners), an empty container may be vacuum cleaned, struck, with the open end of the container up, three times (e.g., on the ground, with a hammer or hand) to remove or loosen particles from the inner walls and corners, and vacuum cleaned again. Equipment used for the vacuum cleaning of residues from containers or inner liners must be decontaminated before discarding, in accordance with procedures approved by the department.

Any rinsate or vacuumed residue which results from the cleaning of containers or inner liners ((~~shall~~)) will, whenever possible, be reused in a manner consistent with the original intended purpose of the substance in the container or inner liner. In the case of a farmer, if the rinsate is a pesticide residue then the rinsate ((~~shall~~)) must be managed or reused in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property. Otherwise, the rinsate ((~~shall~~)) must be checked against the designation requirements (WAC 173-303-070 through 173-303-100) and, if designated, managed according to the requirements of this chapter.

(c) In the case of a container, the inner liner, that prevented the container from contact with the commercial chemical product or manufacturing chemical, has been removed.

(3) Any residues remaining in containers or inner liners that are "empty" as described in subsection (2) of this section will not be subject to the requirements of this chapter, and will not be considered as accumulated wastes for the purposes of calculating waste quantities. Any dangerous waste in either: A container that is not empty, or an inner liner removed from a container that is not empty (as defined in subsection (2) of this section) is subject to the requirements of this chapter.

(4) A person may petition the department to approve alternative container rinsing processes in accordance with WAC 173-303-910(1).

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-161 Overpacked containers (labpacks). Small containers of dangerous waste may be placed in overpacked drums (or labpacks) provided that the following conditions are met:

(1) Dangerous waste must be packaged in nonleaking inside containers. The inside containers must be of a design and constructed of a material that will not react dangerously with, be decomposed by, or be ignited by the contained waste. Inside containers must be tightly and securely sealed and, to the extent possible, should be full and have as little air as possible in them to minimize voids. The inside containers must be of the size and type specified in the Department of Transportation (DOT) hazardous materials regulations (49 CFR Parts 173, 178, and 179), if those regulations specify a particular inside container for the waste;

(2) The inside containers must be overpacked in an open head DOT-specification ((~~metal or fiber~~)) drum shipping container which meets all of the requirements of 49 CFR Parts 173, 178, and 179. The overpack container must not exceed a capacity of 416-liter (110 gallon). The overpack container must have a sufficient quantity of ((~~absorbent~~)) sorbent material, determined to be nonbiodegradable in accordance with WAC 173-303-665(10), to completely ((~~absorb~~)) sorb all of the liquid contents of the inside containers. The ((~~metal or fiber~~)) outer container must be full after ((~~packing~~)) it has been packed with inside containers and ((~~absorbent~~)) sorbent material;

(3) The ((~~absorbent~~)) sorbent material used must not be capable of reacting dangerously with, being decomposed by, or being ignited by the contents of the inside containers, in accordance with WAC 173-303-395 (1)(b);

(4) Incompatible wastes, as defined in WAC 173-303-040, must not be placed in the same outside container; and

(5) Reactive wastes, other than cyanide- or sulfide-bearing waste as defined in WAC 173-303-090 (7)(a)(v), must be treated or rendered nonreactive prior to packaging in accordance with subsections (1) through (4) of this section. Cyanide- and sulfide-bearing reactive waste may be packed in accordance with subsections (1) through (4) of this section without first being treated or rendered nonreactive.

(6) An itemized listing of the chemicals, their concentrations and quantities per labpack must be kept by the generator and must be readily available in case of an emergency during shipment, and for the purposes of preparing annual reports under WAC 173-303-220.

(7) Such disposal is in compliance with the requirements of WAC 173-303-140 (2)(a). Persons who incinerate labpacks according to the requirements in 40 CFR 268.42(c)(1) (incorporated by reference at WAC 173-303-140 (2)(a) may use fiber drums in place of metal outer containers. Such fiber drums must meet the DOT specifications in 49 CFR 173.12 and be overpacked according to the requirements in subsection (2) of this section.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-170 Requirements for generators of dangerous waste. (1) A person ((~~shall~~)) will be a dangerous waste generator if ((~~his~~)) their solid waste is designated by the requirements of WAC 173-303-070 through 173-303-100.

(a) The generator ((~~shall~~)) will be responsible for designating ((~~his~~)) their waste as DW or EHW.

(b) The generator may request an exemption for ((~~his~~)) their dangerous waste according to the procedures of WAC 173-303-072.

(2) A dangerous waste generator ((~~shall~~)) must notify the department and obtain an EPA/state identification number as required by WAC 173-303-060, and ((~~shall~~)) must comply with the requirements of WAC 173-303-170 through 173-303-230.

(3) Any generator who stores, treats, or disposes of dangerous waste on-site ((~~shall~~)) must perform ((~~his~~)) their operations in accordance with the TSD facility requirements with the following exceptions:

(a) Generators who accumulate dangerous wastes for less than ninety days as allowed under WAC 173-303-200 or for less than one hundred eighty days as allowed under WAC 173-303-201 and 173-303-202;

(b) Generators who treat dangerous waste on-site in accumulation tanks ((~~and~~)), containers, and containment buildings provided that the generator maintains a log showing the date and amount of waste treated and complies with:

(i) WAC 173-303-200 or 173-303-201, ((~~and for tanks, WAC~~)) 173-303-202 for tanks, and WAC 173-303-695 for containment buildings; and

(ii) WAC 173-303-283(3);

(c) Generators who treat special waste ((~~in units other than accumulation tanks or containers~~)) on-site provided:

(i) ((~~The treatment occurs within the appropriate accumulation time frame;~~)) The accumulation standards of WAC 173-303-073(2)(a) and (b) are met;

(ii) When treated in units other than tanks or containers, the unit is designed, constructed, and operated in a manner that prevents:

(A) A release of waste and waste constituents to the environment;

(B) Endangerment of health of employees or the public;

(C) Excessive noise;

(D) Negative aesthetic impact on the use of adjacent property.

(iii) The treatment unit must also be inspected routinely for deterioration that would lead to a release and repairs must be conducted promptly.

(4) ((~~The generator of a special waste may, upon approval by the department, for special waste only:~~

~~(a) Develop and implement an alternative manifest mechanism in lieu of the requirements of WAC 173-303-180 for special waste shipments. Such alternative mechanism might employ a single manifest for multiple shipments of the same special waste, might not require signatures or multiple copies for transporters or designated receiving facilities, and might include such other factors as the generator might develop and the department approve. The generator must, however, demonstrate to the department's satisfaction before~~

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~~implementing the alternative mechanism that it will assure accurate tracking and recording of waste shipments, and that the mechanism provides for the proper submission of exception reports as specified in WAC 173-303-220(2). The generator shall be responsible for assuring that all transporters and facilities involved in implementing the alternative manifest mechanism are complying with the terms and conditions of the mechanism as approved by the department; and~~

~~(b) Pursuant to the requirements of WAC 173-303-200, accumulate special waste in containers and tanks for up to one hundred eighty days, and accumulate special waste in piles for up to ninety days provided that he complies with WAC 173-303-660 (2), (3)(a), (b)(i), (ii)(A), (7), (8), and (9)(a).~~

~~(5)~~)) The generator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-180 Manifest. Before transporting dangerous waste or offering dangerous waste for transport off the site of generation, the generator ((~~shall~~)) must prepare a manifest and ((~~shall~~)) must follow all applicable procedures described in this section.

(1) This subsection describes the form and contents of dangerous waste manifests. 40 CFR Part 262 Appendix - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions) is adopted by reference. The manifest ((~~shall~~)) will be EPA Form 8700-22 and, if necessary, EPA Form 8700-22A. The manifest must be prepared in accordance with the instructions for these forms, as described in the uniform manifest Appendix of 40 CFR Part 262, and in addition must contain the following information in the specified shaded items of the uniform manifest:

(a) Item D - The first transporter's telephone number must be provided in this space;

(b) Item F - If a second transporter is used, then the second transporter's telephone number must be provided in this space;

(c) Item H - The designated receiving facility's telephone number must be provided in this space;

(d) Item I, and R if the continuation sheet 8700-22A is used - The dangerous waste number (e.g., F001, D006, WT02, P102) must be provided in this space for each corresponding waste entered and described under Item 11, and 28 if the continuation sheet 8700-22A is used. As discussed in subsection (5) of this section, dangerous waste numbers WL01 or WL02 may be used in this space for labpacks;

(e) Item O, (on the continuation sheet 8700-22A) - If a third transporter is used, then the third transporter's telephone number must be provided in this space; and

(f) Item Q, (on the continuation sheet 8700-22A) - If a fourth transporter is used, then the fourth transporter's telephone number must be provided in this space.

(2) The manifest ((~~shall~~)) must consist of enough copies to provide the generator, transporter(s), and facility owner/operator with a copy, and a copy for return to the generator.

(3) Manifest procedures.

(a) The generator ((~~shall~~)) must:

(i) Sign and date the manifest certification by hand;

(ii) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(iii) Retain one copy in accordance with WAC 173-303-210, Generator recordkeeping.

(b) The generator ((~~shall~~)) must give the remaining manifest copies to the transporter.

(c) If the transporter is unable to deliver the dangerous waste shipment to the designated facility or the alternate facility, the generator must either designate another facility or instruct the transporter to return the waste shipment.

(d) For shipments of dangerous waste within the United States solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility or the last water (bulk shipment) transporter to handle the waste in the United States if exported by water. Copies of the manifest are not required for each transporter.

(e) For rail shipments of dangerous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section to:

(i) The next nonrail transporter, if any; or

(ii) The designated facility if transported solely by rail; or

(iii) The last rail transporter to handle the waste in the United States if exported by rail.

(f) For shipments of federally regulated hazardous waste to a designated facility in an authorized state which has not yet obtained authorization to regulate that particular waste as hazardous, the generator must assure that the designated facility agrees to sign and return the manifest to the generator, and that any out-of-state transporter signs and forwards the manifest to the designated facility.

(4) Special requirements for shipments to the Washington EHW facility at Hanford.

(a) All generators planning to ship dangerous waste to the EHW facility at Hanford ((~~shall~~)) must notify the facility in writing and by sending a copy of the prepared manifest prior to shipment.

(b) The generator ((~~shall~~)) must not ship any dangerous waste without prior approval from the EHW facility. The state operator may exempt classes of waste from the requirements of WAC 173-303-180 (4)(a) and (b) where small quantities or multiple shipments of a previously approved waste are involved, or there exists an emergency and potential threat to public health and safety.

(5) Special instructions for shipment of labpacks. For purposes of completing the uniform dangerous waste manifest, dangerous waste numbers WL01 (for labpacks containing wastes designated as EHW) or WL02 (for labpacks containing wastes designated only as DW) may be used to complete Items I and R in lieu of the dangerous waste numbers that would otherwise be assigned to the contents of the labpack.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-190 Preparing dangerous waste for transport. The generator ((~~shall~~)) must fulfill the following requirements before transporting off-site or offering for off-site transport any dangerous waste.

(1) Packaging. The generator ((~~shall~~)) will package all dangerous waste for transport in accordance with United States DOT regulations on packaging, 49 CFR Parts 173, 178, and 179.

(2) Labeling. The generator ((~~shall~~)) will label each package in accordance with United States DOT regulations, 49 CFR Part 172.

(3) Marking. The generator ((~~shall~~)) will:

(a) Mark each package of dangerous waste in accordance with United States DOT regulations, 49 CFR Part 172; and

(b) Mark each package containing one hundred ten gallons or less of dangerous waste with the following, or equivalent words and information, displayed in accordance with 49 CFR 172.304:

HAZARDOUS WASTE - State and federal law prohibits improper disposal. If found, contact the nearest police or public safety authority, and the Washington state department of ecology or the United States Environmental Protection Agency.

Generator's Name and Address

. . . . . .

. . . . . .

. . . . . .

Manifest Document Number

. . . . . .

(4) Placarding. The generator ((~~shall~~)) will placard, or offer to the initial transporter all appropriate placards in accordance with United States DOT regulations, 49 CFR Part 172, Subpart F.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-200 Accumulating dangerous waste on-site. (1) A generator, not to include transporters as referenced in WAC 173-303-240(3), may accumulate dangerous waste on-site without a permit for ninety days or less after the date of generation, provided that:

(a) All such waste is shipped off-site to a designated facility or placed in an on-site facility which is permitted by the department under WAC 173-303-800 through 173-303-845 or recycled or treated on-site in ninety days or less. The department may, on a case-by-case basis, grant a maximum thirty day extension to this ninety day period if dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances. A generator who accumulates dangerous waste for more than ninety days is an operator of a storage facility and is subject to the facility requirements of this chapter and the permit requirements of this chapter as a storage facility unless he has been granted an extension to the ninety day period allowed pursuant to this subsection;

(b)(i) The waste is placed in containers and the generator complies with WAC 173-303-630 (2), (3), (4), (5), (6), (8), (9), and (10)((~~,~~)). For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7); or

(ii) The waste is placed in tanks and the generator complies with WAC 173-303-640 (2) through (10), except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a). (Note: A generator, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section.) Such a generator is exempt from the requirements of WAC 173-303-620 and 173-303-610, except for WAC 173-303-610 (2) and (5)((~~. For container accumulation (including satellite areas as described in subsection (2) of this section), the department may require that the accumulation area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being accumulated, or due to a history of spills or releases from accumulated containers. In addition, any new container accumulation areas (but not including new satellite areas, unless required by the department) constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7);~~)); or

(iii) the waste is placed on drip pads and the generator complies with WAC 173-303-675 and maintains the following records at the facility:

(A) A description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days; and

(B) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal; and/or

(iv) The waste is placed in containment buildings and the generator complies with 40 CFR Part 265 Subpart DD, incorporated by reference in WAC 173-303-400 (3)(a), has placed its professional engineer certification that the building complies with the design standards specified in 40 CFR 265.1101 in the facility's operating record no later than sixty days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

(A) A written description of procedures to ensure that each waste volume remains in the unit for no more than ninety days, a written description of the waste generation and management practices for the facility showing that they are

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consistent with respecting the ninety-day limit, and documentation that the procedures are complied with; or

(B) Documentation that the unit is emptied at least once every 90 days.

In addition, such a generator is exempt from all the requirements in WAC 173-303-610 and 173-303-620, except for WAC 173-303-610(2).

(c) The date upon which each period of accumulation begins is marked and clearly visible for inspection on each container;

(d) While being accumulated on site, each container and tank is labeled or marked clearly with the words "dangerous waste" or "hazardous waste." Each container or tank must also be marked with a label or sign which identifies the major risk(s) associated with the waste in the container or tank for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state, or federal regulations, then such system will be adequate). The department may also require that a sign be posted at each entrance to the accumulation area, bearing the legend, "danger—unauthorized personnel keep out," or an equivalent legend, written in English, and legible from a distance of twenty-five feet or more; and

(e) The generator complies with the requirements for facility operators contained in:

(i) WAC 173-303-330 through 173-303-360 (personnel training, preparedness and prevention, contingency plan and emergency procedures, and emergencies) except for WAC 173-303-355 (SARA Title III coordination); and

(ii) WAC 173-303-320 (1), (2)(a), (b), (d), and (3) (general inspection); and

(f) The generator complies with 40 CFR 268.7(a)(4) (waste analysis plan when treating waste to meet treatment standards for land disposal restrictions).

(2) Satellite accumulation.

(a) A generator may accumulate as much as fifty-five gallons of dangerous waste or one quart of acutely hazardous waste per waste stream in containers at or near any point of generation where waste initially accumulates (defined as a satellite accumulation area in WAC 173-303-040). The satellite area must be under the control of the operator of the process generating the waste or secured at all times to prevent improper additions of wastes to a satellite container. Satellite accumulation is allowed without a permit provided the generator:

(i) Complies with WAC 173-303-630 (2), (4), (5) (a) and (b), (8)(a), and (9) (a) and (b); and

(ii) Complies with subsection (1)(d) of this section.

(b) When fifty-five gallons of dangerous waste or one quart of acutely hazardous waste is accumulated per waste stream, the container(s) must be marked immediately with the accumulation date and moved within three days to a designated storage or accumulation area.

(c) On a case-by-case basis the department may require the satellite area to be managed in accordance with all or some of the requirements under subsection (1) of this section, if the nature of the wastes being accumulated, a history of spills or releases from accumulated containers, or other factors are determined by the department to be a threat or potential threat to human health or the environment.

(3) For the purposes of this section, the ninety-day accumulation period begins on the date that:

(a) The generator first generates a dangerous waste; or

(b) The quantity (or aggregated quantity) of dangerous waste being accumulated by a small quantity generator first exceeds the quantity exclusion limit for such waste (or wastes); or

(c) Fifty-five gallons of dangerous waste or one quart of acutely hazardous waste, per waste stream, is accumulated in a satellite accumulation area.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-201 Special accumulation standards. (1) This section applies to persons who generate more than 220 pounds but less than 2200 pounds per calendar month and do not accumulate on-site more than 2200 pounds of dangerous waste. The special provisions of this section do not apply to acutely hazardous wastes that exceed the QEL that are being generated or accumulated by the generator.

(2) For purposes of accumulating dangerous waste on-site, persons who generate per month and accumulate on-site less than 2200 pounds (1000 kg) per month of dangerous waste are subject to all applicable provisions of WAC 173-303-200 except as follows:

(a) In lieu of the ninety-day accumulation period, dangerous wastes may be accumulated for one hundred eighty days or less. The department may, on a case-by-case basis, grant a maximum ninety-day extension to this one hundred eighty-day period if the generator must transport his waste, or offer his waste for transportation, over a distance of two hundred miles or more for off-site treatment, storage, or disposal, and the dangerous wastes must remain on-site due to unforeseen, temporary and uncontrollable circumstances;

(b) The generator need not comply with WAC 173-303-330 (Personnel training); ((~~and~~))

(c) In lieu of the contingency plan and emergency procedures required by WAC 173-303-350 and 173-303-360, the generator must comply with the following:

(i) At all times there must be at least one employee either on the premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures specified in (c)(iv) of this subsection. This employee is the emergency coordinator.

(ii) The generator must post the following information next to all emergency communication devices (including telephones, two-way radios, etc.):

(A) The name and telephone number of the emergency coordinator;

(B) Location of fire extinguishers and spill control material, and, if present, fire alarm; and

(C) The telephone number of the fire department, unless the facility has a direct alarm.

(iii) The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies;

(iv) The emergency coordinator or his designee must respond to any emergencies that arise. The applicable responses are as follows:

(A) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher;

(B) In the event of a spill, contain the flow of dangerous waste to the extent possible, and as soon as is practicable, clean up the dangerous waste and any contaminated materials or soil;

(C) In the event of a fire, explosion, or other release which could threaten human health outside the facility or when the generator has knowledge that a spill has reached waters of the state, the generator must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their twenty-four hour toll free number 800/424-8802). The report must include the following information:

(I) The name, address, and EPA/state identification number of the generator;

(II) Date, time, and type of incident (e.g., spill or fire);

(III) Quantity and type of hazardous waste involved in the incident;

(IV) Extent of injuries, if any; and

(V) Estimated quantity and disposition of recovered materials, if any;

(d) For waste that is placed in tanks, generators must comply with WAC 173-303-202 in lieu of WAC 173-303-200 (1)(b).

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-210 Generator recordkeeping. (1) The generator ((~~shall~~)) must keep a copy of each manifest signed by the initial transporter in accordance with WAC 173-303-180(3), manifest procedures, for three years, or until he receives a signed copy from the designated facility which received the waste. The signed facility copy ((~~shall~~)) must be retained for at least five years from the date the waste was accepted by the initial transporter.

(2) The generator ((~~shall~~)) must keep a copy of each annual report and exception report as required by WAC 173-303-220 for a period of at least five years from the due date of each report. The generator ((~~shall~~)) must keep a copy of his most recent notification (Form 2) until he is no longer defined as a generator under this chapter.

(3) Waste designation records.

(a) The generator ((~~shall~~)) must keep records of any test results, waste analyses, or other determinations made in accordance with WAC 173-303-170(1) for designating dangerous waste for at least five years from the date that the waste was last transferred for on-site or off-site treatment, storage, or disposal.

(b) At a minimum, test results must include:

(i) The sample source, sampling date, and sampling procedure used;

(ii) The laboratory performing the test;

(iii) The testing date, and testing method used;

(iv) The analytical result, or the quantitative range of the testing method for analytes not detected.

(4) Any other records required for generators accumulating wastes on-site as described in WAC 173-303-170 (4)(b) or 173-303-200 must be retained for at least five years, including, but not limited to such items as inspection logs.

(5) The periods of retention for any records described in this section ((~~shall~~)) will be automatically extended during the course of any unresolved enforcement action requiring those records or upon request by the director.

(6) All generator records, including plans required by this chapter, ((~~shall~~)) will be made available and furnished upon request by the director.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-220 Generator reporting. The generator ((~~shall~~)) must submit the following reports to the department by the specified due date for each report, or within the time period allowed for each report.

(1) Annual reports.

(a) A generator or any person who has obtained an EPA/state identification number pursuant to WAC 173-303-060 ((~~shall~~)) must submit an annual report to the department, on the ((~~Generator Annual Dangerous Waste Report - Form 4~~)) Dangerous Waste Annual Report according to the instructions on the form (copies are available from the department), no later than March 1 for the preceding calendar year.

(b) In addition, any generator who stores, treats, or disposes of dangerous waste on-site ((~~shall~~)) must comply with the annual reporting requirements of WAC 173-303-390, Facility reporting.

(2) Exception reports.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within thirty-five days of the date the waste was accepted by the initial transporter must contact the transporter(s) and/or facility to determine the status of the dangerous waste shipment.

(b) A generator must submit an exception report to the department if he has not received a copy of the manifest with the handwritten signature of the owner/operator of the designated facility within forty-five days of the date the waste was accepted by the initial transporter.

(c) The exception report must include:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery; and

(ii) A cover letter signed by the generator or his representative explaining the efforts taken to locate the waste and the results of those efforts.

(d) The department may require a generator to submit exception reports in less than forty-five days if it finds that the generator frequently or persistently endangers public health or the environment through improper waste shipment practices.

(3) Additional reports. The director, as he deems necessary under chapter 70.105 RCW, may require a generator to furnish additional reports (including engineering reports, plans, and specifications) concerning the quantities and disposition of the generator's dangerous waste.

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AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-230 Special conditions. (1) Exporting dangerous waste.

Federal export requirements, administered by EPA, are set forth ((~~in~~)) at 40 CFR 262 Subpart E and 40 CFR 261.5, 261.6, 262.41, and 263.20 and specify the procedures applicable to generators of hazardous waste (as defined in WAC 173-303-040). These requirements are incorporated by reference. Copies of any forms or reports submitted to the administrator of United States EPA as required by 40 CFR 262 Subpart E ((~~shall~~)) must also be submitted to the department.

(2) Importing dangerous waste. When importing dangerous waste from a foreign country into Washington state, the United States importer ((~~shall~~)) must comply with all the requirements of this chapter for generators, including the requirements of WAC 173-303-180(1), except that:

(a) In place of the generator's name, address and EPA/state identification number, the name and address of the foreign generator and the importer's name, address and EPA/state identification number ((~~shall~~)) must be used; and

(b) In place of the generator's signature on the certification statement, the United States importer or his agent ((~~shall~~)) must sign and date the certification and obtain the signature of the initial transporter.

(3) Empty containers. For the purposes of this chapter, a person who stores, treats, disposes, transports, or offers for transport empty containers of dangerous waste that were for his own use ((~~shall~~)) will not be treated as a generator or as a facility owner/operator if the containers are empty as defined in WAC 173-303-160(2), and either:

(a) The rinsate is not a dangerous waste under this chapter; or

(b) He reuses the rinsate in a manner consistent with the original product or, if he is a farmer and the rinsate contains pesticide residues, he reuses or manages the rinsate in a manner consistent with the instructions on the pesticide label, provided that when the label instructions specify disposal or burial, such disposal or burial must be on the farmer's own (including rented, leased or tenanted) property.

(4) Tank cars. A person rinsing out dangerous waste tote tanks, truck or railroad tank cars ((~~shall~~)) must handle the rinsate according to this chapter, and according to chapter 90.48 RCW, Water pollution control.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-240 Requirements for transporters of dangerous waste. (1) Transporters ((~~shall~~)) must comply with the requirements of WAC 173-303-060, Notification and identification numbers. Transporters who are involved in interstate transport ((~~shall~~)) will use the identification number assigned to their national headquarters office, unless the department requires, on a case-by-case basis, that a transporter obtain his own unique EPA/state ID#. Transporters who are involved only in intrastate transport ((~~shall~~)) will use the identification number assigned to their headquarters office located within the state. Transporters who must comply with the generator requirements as a result of a spill at a terminal or during transport ((~~shall~~)) will obtain a separate generator EPA/state ID# for such spill or terminal.

(2) Any person who transports a dangerous waste ((~~shall~~)) must comply with the requirements of WAC 173-303-240 through 173-303-270, when such dangerous waste is required to be manifested by WAC 173-303-180.

((~~Any person who transports special waste shall, if the generator of the waste has implemented an alternative manifest mechanism approved by the department under WAC 173-303-170 (4)(a), comply with the terms and conditions specified by the generator and approved by the department for the alternative manifest mechanism.~~))

(3) Any person who transports a dangerous waste ((~~shall~~)) must also comply with the requirements of WAC 173-303-170 through 173-303-230 for generators, if he:

(a) Transports dangerous waste into the state from another country; or

(b) Mixes dangerous waste of different United States DOT shipping descriptions by mixing them into a single container.

(4) These requirements ((~~shall~~)) will not apply to on-site (as defined in WAC 173-303-040) transportation of dangerous waste by generators, or by owners/operators of permitted TSD facilities.

(5) Transporters may store at a transfer facility manifested shipments of dangerous waste in containers meeting the requirements of WAC 173-303-190 (1), (2), and (3) for ten days or less. Transporters may not accumulate or store manifested shipments of dangerous waste for more than ten days. Reference to WAC 173-303-200 in 173-303-240(3) does not constitute authority for storage in excess of ten days for transporters. Transporters who do not comply with these conditions are subject to all applicable TSD facility requirements.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-250 Dangerous waste acceptance, transport, and delivery. (1) A transporter ((~~shall~~)) must not accept dangerous waste from a generator unless it is accompanied by a manifest signed by the generator in accordance with WAC 173-303-180, Manifest.

(2) Before transporting a dangerous waste shipment, the transporter ((~~shall~~)) must sign and date the manifest, acknowledging acceptance of the dangerous waste. The transporter shall return a signed copy to the generator before commencing transport.

(3) The transporter ((~~shall~~)) must insure that the manifest accompanies the dangerous waste shipment.

(4) A transporter who delivers a dangerous waste to another transporter, or to the designated facility ((~~shall~~)) must:

(a) Obtain the date of delivery and the handwritten signature of that transporter or designated facility owner/operator on the manifest;

(b) Retain one copy of the manifest in accordance with WAC 173-303-260, Transporter recordkeeping; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The transporter ((~~shall~~)) must deliver the entire quantity of dangerous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility, if the dangerous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(6) If the dangerous waste cannot be delivered in accordance with subsection (5) of this section, the transporter ((~~shall~~)) must contact the generator for further directions, and ((~~shall~~)) must revise the manifest according to the generator's instructions.

(7) The requirements of subsections (3), (4), and (8) of this section do not apply to water (bulk shipment) transporters if:

(a) The dangerous waste is delivered by water (bulk shipment) to the designated facility;

(b) A shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste;

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper;

(d) The person delivering the dangerous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with WAC 173-303-260(2).

(8) For shipments involving rail transportation, the requirements of subsections (3), (4), and (7) of this section do not apply and the following requirements do apply.

(a) When accepting dangerous waste from a nonrail transporter, the initial rail transporter must:

(i) Sign and date the manifest acknowledging acceptance of the dangerous waste;

(ii) Return a signed copy of the manifest to the nonrail transporter;

(iii) Forward at least three copies of the manifest to:

(A) The next nonrail transporter, if any; or

(B) The designated facility, if the shipment is delivered to that facility by rail; or

(C) The last rail transporter designated to handle the waste in the United States;

(iv) Retain one copy of the manifest and rail shipping paper in accordance with WAC 173-303-260(2).

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator certification, and signatures) accompanies the dangerous waste at all times.

(c) When delivering dangerous waste to the designated facility, a rail transporter must:

(i) Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

(ii) Retain a copy of the manifest or signed shipping paper in accordance with WAC 173-303-260(2).

(d) When delivering dangerous waste to a nonrail transporter a rail transporter must:

(i) Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

(ii) Retain a copy of the manifest in accordance with WAC 173-303-260(2).

(e) Before accepting dangerous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(9) Transporters who transport dangerous waste out of the United States ((~~shall~~)) must:

(a) Indicate on the manifest the date the dangerous waste left the United States;

(b) Sign the manifest and retain one copy in accordance with WAC 173-303-260(3), Transporter recordkeeping; and

(c) Return a signed copy of the manifest to the generator.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-260 Transporter recordkeeping. (1) A transporter of dangerous waste ((~~shall~~)) must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(2) Water (bulk shipment) and rail transporter recordkeeping.

(a) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter ((~~shall~~)) must retain a copy of a shipping paper containing all the information required on a manifest (excluding the EPA/state identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(b) For shipments of dangerous waste by rail within the United States:

(i) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required on a manifest (excluding the EPA/state identification numbers, generator certification, and signatures) for a period of three years from the date the dangerous waste was accepted by the initial transporter; and

(ii) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(3) A transporter who transports dangerous waste out of the United States ((~~shall~~)) must keep a copy of the manifest, indicating that the dangerous waste left the United States, for a period of three years from the date the dangerous waste was accepted by the initial transporter.

(4) The periods of retention referred to in this section are extended automatically during the course of any unre-

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solved enforcement action regarding the regulated activity, or as requested by the director.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-270 Discharges during transport. In the event of a spill or discharge of dangerous waste during transportation, the transporter ((~~shall~~)) must comply with the requirements of WAC 173-303-145, Spills and discharges into the environment. In addition to the notices required by WAC 173-303-145, the transporter ((~~shall~~)) must provide the following notifications:

(1) Give notice to the generator of the waste that a discharge has occurred;

(2) Give notice to the National Response Center (800-424-8802 or 202-426-2675), if required by 49 CFR 171.15;

(3) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington D.C., 20590; and,

(4) For a water (bulk shipment) transporter, give the same notice as required by 33 CFR 153.203 for oil and hazardous substances.

AMENDATORY SECTION (Amending Order DE 83-36, filed 1/5/88, effective 2/5/88)

WAC 173-303-280 General requirements for dangerous waste management facilities. (1) Applicability. The requirements of WAC 173-303-280 through 173-303-395 apply to all owners and operators of facilities which store, treat, or dispose of dangerous wastes and which must be permitted under the requirements of this chapter 173-303 WAC, unless otherwise specified in this chapter. ((~~The owner or operator of a facility which manages special waste may comply with the special requirements specified in WAC 173-303-550 through 173-303-560 in lieu of the general requirements of WAC 173-303-280 through 173-303-395, but only for those special wastes which he manages.~~)) Whenever a shipment of dangerous waste is initiated from a facility, the owner or operator of that facility ((~~shall~~)) must comply with the requirements for generators, WAC 173-303-170 through 173-303-230.

(2) Imminent hazard. Notwithstanding any provisions of this chapter, enforcement actions may be brought in the event that the management practices of a facility present an imminent and substantial hazard to the public health and the environment, regardless of the quantity or concentration of a dangerous waste.

(3) Identification numbers. Every facility owner or operator ((~~shall~~)) will apply for an EPA/state identification number from the department in accordance with WAC 173-303-060.

(4) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-281 Notice of intent. (1) Purpose. The purpose of this section is to provide notification to the department, local communities and the public that the siting of a dangerous waste management facility is being considered. Also, to provide general information about the proposed facility owner/operator, the type of facility and the types of wastes to be managed and compliance with the siting criteria.

(2) Applicability. This section applies to owners/operators of proposed facilities. This section also applies to existing facilities for which the department receives an application for expansion. This section does not apply to owners/operators of facilities or portions of facilities who are applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to owners/operators of facilities operating under an emergency permit pursuant to WAC 173-303-804 or to persons at facilities conducting on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, Sections 3004(u), 3004(v), and 3008(h) of the Resource Conservation and Recovery Act, chapter 70.105 RCW, or chapter 70.105D RCW, provided the cleanup activities are being conducted under a consent decree, agreed order, or enforcement order, or is being conducted by the department or United States Environmental Protection Agency. As used in this section:

(a) "Proposed facility" means a facility which has not qualified for interim status under WAC 173-303-805 or for which the department has not issued a final facility permit under WAC 173-303-806 prior to the effective date of this section;

(b) "Existing facility" means a facility which has qualified for interim status under WAC 173-303-805 or for which the department has issued a final facility permit under WAC 173-303-806 prior to the effective date of this section; and

(c) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit application or final status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility.

(3) Notice of intent to file for an interim status or a dangerous waste permit.

(a) The notice of intent to be prepared by the owners/operators of the applicable facilities ((~~shall~~)) will consist of:

(i) The name, address, and telephone number of the owner, operator, and corporate officers;

(ii) The location of the proposed facility or expansion on a topographic map with specifications as detailed in WAC 173-303-806 (4)(a)(xviii);

(iii) A brief description of the types and amounts of wastes to be managed annually;

(iv) A brief description of the major equipment items proposed, if any, and the waste management activities requiring a permit or revision of an existing permit;

(v) Demonstration of compliance with the siting criteria as required under WAC 173-303-282 (6) and (7). The site

conditions with regards to satisfying the criteria are to be assessed as of the date of submittal of the notice of intent to the department;

(vi) For informational purposes a complete summary of compliance violations of permit conditions at hazardous waste management facilities owned or operated by the applicant, its subsidiaries or its parent company, during the ten calendar years preceding the permit application. Along with the summary of compliance violations, as issued by appropriate state or federal regulatory agencies, the applicant ((~~shall~~)) must also submit responses to past violations and any written correspondence with regulatory agencies regarding the compliance status of any hazardous waste management facility owned or operated by the applicant, its subsidiaries or parent company of the owner or operator. A more detailed compliance record must be provided upon request by the department;

(vii) For informational purposes the need for the proposed facility or expansion ((~~shall~~)) must be demonstrated by one of the following methods:

(A) Current overall capacity within Washington is inadequate for dangerous wastes generated in Washington as determined by regional or state dangerous waste management plans; or

(B) The facility is a higher priority management method, as described in RCW 70.105.150, than is currently in place or practical and available for the types of waste proposed to be managed; or

(C) The facility will add to the types of technology available or will reduce cost impacts (not to include transportation costs) to Washington generators for disposal of dangerous wastes; and

(ix) For informational purposes it ((~~shall~~)) must be shown how the capacity of the proposed facility or expansion will affect the overall capacity within the state, in conjunction with existing facilities in Washington.

(b) The notice of intent ((~~shall~~)) must be filed with the department, and copies ((~~shall~~)) must be made available for public review, no less than one hundred fifty days prior to filing an application for a permit or permit revision. Public notification of the notice of intent to file shall be given at the time of filing by announcement in a daily newspaper within the area of the proposed facility or expansion for a minimum of fourteen consecutive days. In addition, the department ((~~shall~~)) will send a copy of the notice of intent to the elected officials of the lead local government and all local governments within the potentially affected area as required by WAC 173-303-902 (5)(b)(i). The department will continue to coordinate with interested local governments throughout the review of the proposal.

(c) Reserved.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-282 Siting criteria. (1) **Purpose.** This section establishes siting criteria which serve as an initial screen in the consideration of sites for dangerous waste management facilities. The purpose of the siting criteria is to immediately disqualify proposed dangerous waste facility sites in locations considered unsuitable or inappropriate for the management of dangerous wastes. Under RCW 70.105.200 (1)(d), siting criteria cannot prevent existing dangerous waste management facilities from operating at or below their present level of activity.

A proposed site which is not disqualified under these criteria will be further studied to determine if it qualifies under site specific rules. Compliance with the siting criteria does not imply that a given project at a given location poses an acceptable level of risk, nor does it commit the department to the issuance of a dangerous waste permit. Projects that demonstrate compliance with the siting criteria will be subjected to comprehensive environmental and technical review pursuant to applicable laws and regulations before the department makes a final decision on a dangerous waste permit.

The department may deny a permit or require protective measures such as engineering enhancements or increased setback distances from resources in order to ensure protection of human health and the environment.

(2) **Applicability.**

(a) Except as otherwise specifically provided, this section applies to:

(i) Owners/operators of proposed facilities; and

(ii) Owners or operators of existing land-based facilities at which an expansion of the land based unit is proposed;

(iii) Owners or operators of existing incinerators at which an expansion is proposed; and

(iv) Owners or operators proposing a significant expansion of other existing dangerous waste management facilities not subject to (a)(i), (ii) and (iii) of this subsection, unless the owner/operator can demonstrate to the satisfaction of the department that the proposed expansion will provide a net increase in protection to human health and the environment beyond that which is currently provided at the facility. However, demonstrations under this subsection (iv) ((~~shall~~)) will not result in treatment or storage facilities expanding into land-based or incineration facilities if siting criteria cannot be satisfied.

(b) This section does not apply to:

(i) Owners/operators of facilities or portions of facilities who are applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65 or WAC 173-303-809;

(ii) Owners/operators of facilities operating under an emergency permit pursuant to WAC 173-303-804;

(iii) Persons at facilities conducting on-site cleanup of sites under the Comprehensive Environmental Response Compensation and Liability Act, Sections 3004(u), 3004(v), and 3008(h) of the Resource Conservation and Recovery Act, chapter 70.105 RCW, or chapter 70.105D RCW, provided the cleanup activities are being conducted under a consent decree, agreed order, or enforcement order, or is being conducted by the department or United States Environmental Protection Agency;

(iv) Persons managing solid wastes who become subject to dangerous waste regulations through amendments to this chapter after the effective date of this section. This provision applies only to those activities operated in accordance with local, state, and federal requirements and which were being conducted prior to becoming subject to Dangerous waste regulations, chapter 173-303 WAC or expansions, if it can be demonstrated to the satisfaction of the department

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that the proposed expansion of such activities will provide a net increase in protection to human health and the environment beyond that which is currently provided at the facility; or

(v) Owners/operators of facilities which recycle hazardous waste and:

(A) Are otherwise exempt from regulation by this chapter under 120;

(B) Have notified the department pursuant to WAC 173-303-060, prior to the effective date of this section;

(C) Are currently operating as a recycling facility as of the effective date of this regulation; and

(D) Seek only to obtain a tank or container storage permit to support recycling operations under this chapter.

Further, significant expansions of such storage facilities meeting the qualifications for this exemption may be considered under subsection (2)(a)(iv) of this section.

(3) **Definitions.** Any terms used in this section that are not defined below ((~~shall~~)) will have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms ((~~shall~~)) will have the described meanings:

(a) "Aquifer of beneficial use" means an aquifer that contains sufficient quality and quantity of water to allow it to be withdrawn for beneficial uses which include, but are not limited to, uses for domestic, stock watering, industrial, commercial, agricultural, irrigation, mining, fish and wildlife maintenance and enhancement, or recreational purposes.

(b) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(c) "Domestic water use" means any water used for human consumption, other domestic activities or livestock watering for which the department has issued a permit of water right for surface water diversions pursuant to chapter 90.03 RCW, or for a well pursuant to chapter 90.44 RCW, or for which the department has received a well water report pursuant to RCW 18.104.050, or for any other valid water right claimed in accordance with chapter 90.14 RCW. This does not apply to wells abandoned in compliance with chapter 173-160 WAC.

(d) "Existing facility" means a facility which has qualified for interim status under WAC 173-303-805 or for which the department has issued a final facility permit under WAC 173-303-806((~~, prior to the effective date of this section~~)).

(e) "Expansion" means the enlargement of the land surface area of an existing facility from that described in an interim status permit application or final facility permit, the addition of a new dangerous waste management process, or an increase in overall design capacity of existing dangerous waste management processes at a facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

(f) "Fault" means a fracture along which rocks or soils on one side have been displaced with respect to those on the other side.

(g) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

(h) "Land-based facility" means a dangerous waste management facility which falls under the definition of land disposal as defined in Section 3004(k) of the Resource Conservation and Recovery Act. These facilities use the land as an integral part of their waste management method and include, but are not limited to, landfills, surface impoundments, waste piles, and land treatment facilities. For the purposes of this section, this would not include waste piles in which the dangerous wastes are stored inside or under a structure that provides protection from precipitation and when runoff, leachate, or other types of waste dispersal are not generated under any conditions.

(i) "Nonland based facility" means a facility which does not use the land as an integral part of its waste management method and is not subject to the requirements of WAC 173-303-806 (4)(a)(xxi). These facilities include, but are not limited to, tanks, containers, and incinerators.

(j) "Perennial surface water body" means a surface water body which is normally continuous with natural flows throughout the year or an annually recurring body of water including lakes, rivers, ponds, streams, reservoirs, inland waters, and saltwaters. This does not include roadside ditches or storm drains. However, this definition does apply to irrigation or domestic water supply channels existing, or planned and approved by a governmental agency, at the time an owner/operator submits a notice of intent.

(k) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (i) Landfill; (ii) incineration; (iii) land treatment; (iv) surface impoundment to be closed as a landfill; or (v) waste pile to be closed as a landfill.

(l) "Prime farmland" means the land which has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber or oilseed crops, and is also available for these uses. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. It is permeable to water and air. Prime farmland is not excessively erodible or saturated with water for a long period of time, and it either does not flood frequently or is protected from flooding. Prime farmland ((~~shall~~)) will be determined by those general and specific criteria as defined in the National Soils Handbook, Soil Conservation Service, United States Department of Agriculture, Washington, D.C. and 7 CFR 2.62. Areas of prime farmland are identified in the most recent county soil survey maps prepared by the National Cooperative Soil Survey.

(m) "Proposed facility" means a facility which has not qualified for interim status under WAC 173-303-805 or for which the department has not issued a final facility permit under WAC 173-303-806 ((~~prior to the effective date of this section~~)).

(n) "Public gathering places" means a place such as a public or private health care or child care facility; an educational institution; a church; a government institution not associated with dangerous waste management; or a retail shopping center.

(o) "Residence" means any dwelling including, but not limited to, private homes, rental homes, boarding houses, apartments, motels, or hotels.

(p) "Significant expansion" means an expansion of an existing facility, operating under interim status or a final status permit, that is considered a class three modification as designated by 40 CFR Parts 270.41 and 270.42. Examples include, but are not limited to, a modification or addition of container units resulting in greater than a twenty-five percent increase in the facility's container storage capacity, storage of different wastes in containers that require additional or different management practices from those authorized under interim status or by a final status permit, and a modification or addition of tank units resulting in greater than twenty-five percent increase in the facility's capacity. For the purposes of this section, a single or cumulative increase of greater than twenty-five percent of the process design capacity as described in the facility's original Part A permit application ((~~shall~~)) will be considered a significant expansion.

(q) "Slope and soil instability" means areas for which there is credible evidence of, or the potential for, landslides, slumps, avalanches, earth or mud flows, or other unsuitable slope conditions.

(r) "Subsidence" means areas for which there is credible evidence of, or potential for, sinking of the land surface. Areas of subsurface mines, caves, cavernous materials, or where there has been significant removal of fluids may provide credible evidence of subsidence.

(s) "Wetland" means land transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification a wetland must have one or more of the following three attributes: (i) At least periodically, the land supports predominantly hydrophytes; (ii) the substrate is predominantly undrained hydric soil; and (iii) the substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year. The *Joint Federal Methodology for Identifying and Delineating Wetlands* ((~~shall~~)) will be used for defining the upland boundary of wetlands.

(4) **Implementation.**

(a) Submittal of information to demonstrate compliance. Documentation that a proposed facility or expansion site meets the siting criteria ((~~shall~~)) must be submitted to the department:

(i) In the notice of intent for those facilities for which a notice of intent is filed after the effective date of this section; or

(ii) Within ninety days of the effective date of this section for proposed facilities for which a notice of intent or an application for a Part B permit has been submitted to the department prior to the effective date of this section.

(b) Consultation by department. The department ((~~shall~~)) will consult with the lead local government as defined in WAC 173-303-902 (4)(h) and consider those local land use, building, fire, air quality, and transportation standards to the extent they add to and do not conflict with the requirements of this section. Such consultation and consideration ((~~shall~~)) will be made prior to the department's rendering of a tentative decision under subsection (4)(c) of this section.

(c) Response by department. Within sixty days of receipt of a demonstration of compliance, the department ((~~shall~~)) will undertake one of the following actions:

(i) Return the demonstration of compliance as incomplete with written comments identifying the need for additional information. The owner or operator may resubmit the demonstration of compliance with complete information; or

(ii) Render a written tentative decision to approve or deny the demonstration of compliance.

(d) Public notice and hearing process. The department in making a tentative decision to approve or deny a demonstration of compliance with this section ((~~shall~~)) will take the following actions:

(i) For land-based facilities and incinerators:

(A) The department ((~~shall~~)) will publish a notice of its tentative decision in a daily or weekly newspaper of general circulation in the potentially affected area, and ((~~shall~~)) will give notice by other reasonable methods to persons potentially affected.

(B) The department ((~~shall~~)) will hold a public hearing at a location convenient to the public in the potentially affected area. Notice of the date, time, purpose, and place of the hearing ((~~shall~~)) will be provided in the publication of notice.

(C) The department ((~~shall~~)) will accept comments on its tentative decision for a minimum of forty-five days.

(D) After evaluating all public comments the department will make a final decision in accordance with chapter 34.05 RCW. The department will either approve or deny the owner/operator's demonstration of compliance.

(ii) For nonland-based facilities, excluding incinerators:

(A) The department ((~~shall~~)) will publish a notice of its tentative decision in a daily or weekly newspaper of general circulation in the potentially affected area, and ((~~shall~~)) will give notice by other reasonable methods to persons potentially affected.

(B) Upon the written request of any interested person, the department may hold a public hearing to consider public comments on the owner or operator's demonstration of compliance. A person requesting the hearing ((~~shall~~)) must state the issues to be raised and explain why written comments would not suffice. In any case, if ten or more persons request a public hearing on the subject of the department's tentative decision, the department ((~~shall~~)) will hold a public hearing for the purpose of receiving comments.

(C) The department ((~~shall~~)) will accept comments on its tentative decision for a minimum of forty-five days.

(D) After evaluating all public comments the department will make a final decision in accordance with chapter 34.05 RCW. The department will either approve or deny the owner or operator's demonstration of compliance.

(5) **Appeal of a department decision.** Any person who is adversely affected by a decision of the department under this section may appeal the decision to the pollution control hearings board pursuant to the authority of WAC 173-303-845.

(6) **Criteria for elements of the natural environment.** The following siting criteria establish locations from which facilities are excluded and establish minimum setback distances from identified resources. Unless otherwise stated, setback distances are measured horizontally from the

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dangerous waste management unit boundary to the identified resource.

These criteria ((~~shall~~)) will be used as an initial screening tool in the selection of sites which may be considered by the department for the purpose of managing dangerous waste. A more comprehensive evaluation of locational factors will occur during the department's review of a permit application. The department may deny a permit or impose additional setback distances or other permit requirements if necessary to protect human health and the environment.

(a) Earth. The intent of this subsection is to reduce the potential for the release of dangerous waste into the environment because of structural damage to facilities subject to the hazards identified below. The owner/operator ((~~shall~~)) must provide supportive geologic, geotechnical, and soils information.

(i) Seismic risk. All dangerous waste management facilities ((~~shall~~)) must be located such that the dangerous waste management unit boundary is located at least five hundred feet from a fault which has had displacement in Holocene times.

(ii) Subsidence. No dangerous waste management facility ((~~shall~~)) will be located such that the dangerous waste management unit is within an area of subsidence.

(iii) Slope or soil instability. No dangerous waste management facility ((~~shall~~)) will be located such that the dangerous waste management unit is within an area of slope or soil instability, nor in the areas affected by unstable slope or soil conditions.

(b) Air. The intent of this subsection is to reduce the potential for further degradation of air quality in areas currently experiencing air quality impacts.

(i) Incineration facilities ((~~shall~~)) will not be located in a Class I Prevention of Significant Deterioration Air Quality Zone designated under the Federal Clean Air Act.

(ii) Incineration facilities ((~~shall~~)) will not be located in a nonattainment area designated by the department unless compensating emission offset can be achieved.

(iii) Proposed incineration facilities ((~~shall~~)) must comply with WAC 173-303-806 (4)(a)(xxii) during the permitting process.

(c) Water. The intent of this subsection is to reduce the potential for contaminating waters of the state in the event of a release of dangerous wastes.

(i) Surface water.

(A) Flood, seiche, and tsunami protection.

(I) No dangerous waste management facility ((~~shall~~)) or dangerous waste management unit will be located within the one hundred-year flood plain as indicated in the most current Federal Emergency Management Agency maps.

(II) The owner/operator of a nonland-based facility ((~~shall~~)) must identify whether the facility is intended to be located within the five hundred-year flood plain, as indicated in the most current Federal Emergency Management Agency maps. Nonland-based facilities will require special design features so as to prevent flooding of the dangerous waste management unit in the event of a five hundred-year flood.

(III) Land-based facilities ((~~shall~~)) will not be located within the five hundred-year flood plain as indicated in the most current Federal Emergency Management Agency maps.

(IV) Dangerous waste management facilities ((~~shall~~)) will not be located in areas subject to seiches, or coastal flooding including tsunamis or storm surges as indicated in the most current maps of the National Flood Insurance Program of the Federal Emergency Management Agency.

(B) Perennial surface water bodies.

(I) Nonland-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least five hundred feet from a perennial surface water body.

(II) Land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least one-quarter mile from a perennial surface water body.

(C) Surface water supply.

(I) No dangerous waste management facility ((~~shall~~)) will be located in a watershed identified in the report submitted to, and approved by, the department of health under the authority of WAC 248-54-225(3), Watershed control.

(II) Nonland-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least five hundred feet from the nearest surface water intake for domestic water.

(III) Land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least one-quarter mile from the nearest surface water intake for domestic water.

(ii) Ground water. To the extent feasible, proponents of land-based facilities should seek sites with natural site characteristics which are capable of providing protection of ground water resources. Natural features such as low permeability soils and substrata, relatively simple geologic formations, and high rates of evapotranspiration in relation to the seasonal occurrence of precipitation are preferable for the locations of land-based facilities. Proposed land-based facilities ((~~shall~~)) must comply with the contingent ground water protection program, WAC 173-303-806 (4)(a)(xxi), during the permitting process.

(A) Depth to ground water.

(I) Nonland-based facilities ((~~shall~~)) will not be located in areas where there is less than ten feet vertical separation between the lowest point of the dangerous waste management unit and the seasonal high water level of the uppermost aquifer of beneficial use.

(II) Land-based facilities ((~~shall~~)) will not be located in areas where there is less than fifty feet vertical separation between the lowest point of the dangerous waste management unit and the seasonal highwater level of the uppermost aquifer of beneficial use.

(B) Sole source aquifer. No land-based facilities ((~~shall~~)) will be located over an area designated as a sole source aquifer under section 1424(e) of the Federal Safe Drinking Water Act (P.L. 93-523).

(C) Ground water management areas. Owners/operators of facilities ((~~shall~~)) must identify whether the proposed facility location is within a ground water management area, as proposed or certified pursuant to RCW 90.44.130. In order to maintain consistency with the purpose and substantive requirements of certified ground water management area plans, the department may require additional protective measures or reject inconsistent projects.

(D) Ground water intakes.

(I) Nonland-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at

least five hundred feet from the nearest ground water intake for domestic water.

(II) Land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least one-quarter mile from the nearest ground water intake for domestic water.

(E) Special protection areas. Land-based facilities ((~~shall~~)) will not be located within ground water special protection areas designated by ecology under the authority of chapter 90.48 RCW.

(d) Plants and animals: Intent. To reduce the potential for dangerous waste contaminating plant and animal habitat in the event of a release of dangerous wastes.

(i) Nonland-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least five hundred feet from the following areas:

(A) Wetlands;

(B) Designated critical habitat, for federally listed threatened or endangered species, as defined by the Endangered Species Act of 1973 (P.L. 93-205);

(C) Habitat designated by the Washington department of wildlife as habitat essential to the maintenance or recovery of any state listed threatened or endangered wildlife species;

(D) Natural areas which are acquired or voluntarily registered or dedicated by the owner under chapter 79.70 RCW, Natural area preserves; and

(E) State or federally designated wildlife refuge, preserve, or bald eagle protection area.

(ii) Land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least one-quarter mile from those areas specified in item (i) above.

(e) Precipitation. The intent of this subsection is to reduce the potential for contaminating waters and soils of the state in the event of a release of dangerous wastes.

Land-based facilities ((~~shall~~)) will not be located in areas having a mean annual precipitation level of greater than one hundred inches. The mean annual precipitation map in the U.S. Geological Survey Water-Resources Investigations Report 84-4279 ((~~shall~~)) must be used to determine whether a land-based facility is proposed to be located in such an area.

(7) **Criteria for elements of the built environment.** The following siting criteria establish locations from which facilities are excluded or which require separation from identified land uses. Unless otherwise stated, setback distances are measured horizontally from the dangerous waste management unit boundary to the identified land use.

These criteria ((~~shall~~)) will be used as an initial screening tool in the selection of sites which may be considered by the department for the purpose of managing dangerous waste. A more comprehensive evaluation of locational factors will occur during the department's review of a permit application. The department may deny a permit or impose additional setback distances or other permit requirements if necessary to protect human health and the environment.

(a) Adjacent land use.

(i) Nonland-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least two hundred feet from the nearest point of the facility property line.

(ii) Land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least five hundred feet from the nearest point of the facility property line.

(b) Special land uses.

(i) Wild and scenic rivers. Dangerous waste management facilities ((~~shall~~)) will not be located within the viewshed of users on wild and scenic rivers designated by the state or federal government.

(ii) Nonland-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least five hundred feet from the following:

(A) State or federally designated park, recreation area, or national monument;

(B) Wilderness area as defined by the Wilderness Act of 1964 (P.L. 88-577); and

(C) Land identified as prime farmland at the time a notice of intent is submitted to the department.

(iii) Land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least one-quarter mile from those land uses specified in item (ii) above.

(c) Residences and public gathering places.

(i) Nonland-based facilities with the exception of incineration facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least five hundred feet from residences or public gathering places.

(ii) Incineration and land-based facilities ((~~shall~~)) will be located such that the dangerous waste management unit boundary is at least one-quarter mile from residences or public gathering places.

(d) Land use compatibility. Owners/operators of nonpreempted facilities ((~~shall~~)) must conform with local land use zoning designation requirements, as approved by the department under chapter 70.105 RCW.

(e) Archeological sites and historic sites. No dangerous waste management facility ((~~shall~~)) will be located in an archeological site or historic site designated by the state or federal government.

AMENDATORY SECTION (Amending Order 88-29, filed 9/6/88)

WAC 173-303-283 Performance standards. (1) Purpose. This section provides general performance standards for designing, constructing, operating, and maintaining dangerous waste facilities.

(2) Applicability. This section applies to all dangerous waste facilities permitted under WAC 173-303-800 through 173-303-840. These general performance standards ((~~shall~~)) must be used to determine whether more stringent facility standards should be applied than those spelled out in WAC 173-303-280, 173-303-290 through 173-303-400 and 173-303-600 through 173-303-670.

(3) Performance standards. Unless authorized by state, local, or federal laws, or unless otherwise authorized in this regulation, the owner/operator ((~~shall~~)) will design, construct, operate, or maintain a dangerous waste facility that to the maximum extent practical given the limits of technology prevents:

(a) Degradation of ground water quality;

(b) Degradation of air quality by open burning or other activities;

(c) Degradation of surface water quality;

(d) Destruction or impairment of flora and fauna outside the active portion of the facility;

(e) Excessive noise;

(f) Conditions that constitute a negative aesthetic impact for the public using rights of ways, or public lands, or for landowners of adjacent properties;

(g) Unstable hillsides or soils as a result of trenches, impoundments, excavations, etc.;

(h) The use of processes that do not treat, detoxify, recycle, reclaim, and recover waste material to the extent economically feasible; and

(i) Endangerment of the health of employees, or the public near the facility.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-290 Required notices. (1) The facility owner or operator who is receiving dangerous waste from sources outside the United States ((~~shall~~)) must notify the appropriate regional office of the department annually, and in writing at least four weeks in advance of the date the first shipment of waste is expected to arrive at the facility. The notification must be in writing, signed by the importer and operator of the receiving facility, and include the following information:

(a) Name, street address, mailing address, and telephone number of the exporter.

(b) Name, street address, mailing address, telephone number, and EPA/state ID number of the importer and receiving facility.

(c) A description of the dangerous waste and the EPA/state waste numbers, U.S. DOT proper shipping name, hazard class and ID number (UN\NA) for each hazardous waste as identified in 49 CFR Parts 171 through 177.

(d) The estimated frequency or rate at which such waste is to be imported and the period of time over which such waste is to be imported.

(e) The estimated total quantity of the dangerous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22).

(f) A description of the manner by which the dangerous waste will be treated, stored, disposed of, or recycled by the receiving facility.

Upon request by the department, the importer and/or receiving facility ((~~shall~~)) must furnish to the department any additional information regarding the importation of dangerous waste.

(2) Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator ((~~shall~~)) must notify the new owner or operator in writing of the requirements of this chapter 173-303 WAC.

(3) The owner or operator of a facility that receives dangerous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under WAC 173-303-380(1).

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-300 General waste analysis. (1) Purpose. This section requires the facility owner or operator to confirm his knowledge about a dangerous waste before he stores, treats, or disposes of it. The purpose for the analysis is to insure that a dangerous waste is managed properly.

(2) The owner or operator ((~~shall~~)) must obtain a detailed chemical, physical, and/or biological analysis of a dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of this chapter 173-303 WAC. The analysis may include or consist of existing published or documented data on the dangerous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.

(3) The owner or operator of an off-site facility ((~~shall~~)) must confirm, by analysis if necessary, that each dangerous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.

(4) Analysis ((~~shall~~)) must be repeated as necessary to ensure that it is accurate and current. At a minimum, analysis must be repeated:

(a) When the owner or operator has been notified, or has reason to believe, that the process or operation generating the dangerous waste, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), has significantly changed; and

(b) When a dangerous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.

(5) Waste analysis plan. The owner or operator ((~~shall~~)) must develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements of subsections (1), (2), (3), and (4) of this section. He must keep this plan at the facility, and the plan must contain at least:

(a) The parameters for which each dangerous waste, or nondangerous waste if applicable under WAC 173-303-610 (4)(d), will be analyzed, and the rationale for selecting these parameters;

(b) The methods of obtaining or testing for these parameters;

(c) The methods for obtaining representative samples of wastes for analysis (representative sampling methods are discussed in WAC 173-303-110(2));

(d) The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;

(e) The waste analyses which generators have agreed to supply;

(f) Where applicable, the methods for meeting the additional waste analysis requirements for specific waste management methods as specified in WAC 173-303-400(3) which incorporates by reference the regulations in 40 CFR Part 265 Subparts F through R 265.1034, 265.1063, 268.4(a)

and 268.7 for interim status facilities and in WAC 173-303-140 (4)(b), 173-303-395(1) ((~~and in WAC~~)), 173-303-630 through 173-303-670, and 40 CFR 264.1034, 264.1063, 268.4(a) and 268.7 for final status facilities; ((~~and~~))

(g) For off-site facilities, the procedures for confirming that each dangerous waste received matches the identity of the waste specified on the accompanying manifest or shipping paper. This includes at least:

(i) The procedures for identifying each waste movement at the facility; and

(ii) The method for obtaining a representative sample of the waste to be identified, if the identification method includes sampling;

(h) For surface impoundments exempted from land disposal restrictions under 40 CFR 268.4(a), incorporated by reference in WAC 173-303-140(2), the procedures and schedules for:

(i) The sampling of impoundment contents;

(ii) The analysis of test data; and

(iii) The annual removal of residues that are not delisted under 40 CFR 260.22 or which exhibit a characteristic of hazardous waste and either:

(A) Do not meet applicable treatment standards of 40 CFR Part 268, Subpart D; or

(B) Where no treatment standards have been established;

(I) Such residues are prohibited from land disposal under 40 CFR 268.32 or RCRA section 3004(d); or

(II) Such residues are prohibited from land disposal under 40 CFR 268.33(f).

(6) For off-site facilities, the waste analysis plan required in subsection (5) of this section must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(a) The procedures which will be used to determine the identity of each movement of waste managed at the facility;

(b) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling; and

(c) The procedures that the owner or operator of an off-site landfill receiving containerized hazardous waste will use to determine whether a hazardous waste generator or treater has added a biodegradable sorbent to the waste in the container.

Comment: WAC 173-303-806 requires that the waste analysis plan be submitted with Part B of the permit application.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-310 Security. (1) The owner or operator ((~~shall~~)) must comply with the requirements of this section, unless he can demonstrate to the department that:

(a) Physical contact with wastes or equipment within the active portion of the facility will not injure persons or livestock; and

(b) Disturbance of the wastes or equipment within the active portion of the facility by persons or livestock will not result in violations of this chapter 173-303 WAC.

(2) A facility must have:

(a) Signs posted at each entrance to the active portion, and at other locations, in sufficient numbers to be seen from any approach to the active portion. Signs must bear the legend, "Danger-unauthorized personnel keep out," or an equivalent legend, written in English, and must be legible from a distance of twenty-five feet or more; and either

(b) A 24-hour surveillance system which continuously monitors and controls entry onto the active portion of the facility; or

(c) An artificial or natural barrier, or a combination of both, which completely surrounds the active portion of the facility, with a means to control access through gates or other entrances to the active portion of the facility at all times.

(3) In lieu of WAC 173-303-310(2), above, the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit (as defined in WAC 173-303-040) must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock into or onto the totally enclosed treatment facility or the elementary neutralization or wastewater treatment unit.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-320 General inspection. (1) The owner or operator ((~~shall~~)) must inspect his facility to prevent malfunctions and deterioration, operator errors, and discharges which may cause or lead to the release of dangerous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2) The owner or operator ((~~shall~~)) must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment that help prevent, detect, or respond to hazards to the public health or the environment. In addition:

(a) He must keep the schedule at the facility;

(b) The schedule must identify the types of problems which are to be looked for during inspections;

(c) The schedule ((~~shall~~)) must indicate the frequency of inspection for specific items. The frequency should be based on the rate of possible deterioration of equipment, and the probability of an environmental or human health incident. Areas subject to spills must be inspected daily when in use. At a minimum the inspection schedule ((~~shall~~)) must also include the applicable items and frequencies required for the specific waste management methods described in 40 CFR Part 265 Subparts F through R, 265.1033, 265.1052, 265.1053, and 265.1058, for interim status facilities and in WAC 173-303-630 through 173-303-680, and 40 CFR 264.1033, 264.1052, 264.1053, and 264.1058 for final status facilities; and

(d) The owner or operator ((~~shall~~)) must keep an inspection log or summary, including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made, an account of spills or discharges in accordance with

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WAC 173-303-145, and the date and nature of any repairs or remedial actions taken. The log or summary must be kept at the facility for at least five years from the date of inspection.

(3) The owner or operator ((~~shall~~)) must remedy any problems revealed by the inspection, on a schedule which prevents hazards to the public health and environment. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-330 Personnel training. (1) Training program. The facility owner or operator ((~~shall~~)) must provide a program of classroom instruction or on-the-job training for facility personnel. This program must teach personnel to perform their duties in a way that ensures the facility's compliance with this chapter 173-303 WAC, must teach facility personnel dangerous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed, must ensure that facility personnel are able to respond effectively to emergencies, and ((~~shall~~)) must include those elements set forth in the training plan required in subsection (2) of this section. In addition:

(a) The training program ((~~shall~~)) must be directed by a person knowledgeable in dangerous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;

(b) Facility personnel must participate in an annual review of the training provided in the training program;

(c) This program must be successfully completed by the facility personnel:

(i) Within six months after these regulations become effective; or

(ii) Within six months after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.

Employees hired after the effective date of these regulations must be supervised until they complete the training program; and

(d) At a minimum, the training program ((~~shall~~)) must familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program ((~~shall~~)) must include other parameters as set forth by the department, but at a minimum ((~~shall~~)) will include, where applicable:

(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

(ii) Key parameters for automatic waste feed cut-off systems;

(iii) Communications or alarm systems;

(iv) Response to fires or explosions;

(v) Response to ground-water contamination incidents; and

(vi) Shutdown of operations.

(2) Written training plan. The owner or operator ((~~shall~~)) must develop a written training plan which must be kept at the facility and which must include the following documents and records:

(a) For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requisite skills, education, other qualifications, and duties for each position;

(b) A written description of the type and amount of both introductory and continuing training required for each position; and

(c) Records documenting that facility personnel have received and completed the training required by this section. The department may require, on a case-by-case basis, that training records include employee initials or signature to verify that training was received.

(3) Training records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

NEW SECTION

WAC 173-303-335 Construction quality assurance program. (1) CQA program.

(a) A construction quality assurance (CQA) program is required for all surface impoundment, waste pile, and landfill units that are required to comply with WAC 173-303-650 (2)(j) and (k), 173-303-660 (2)(j) and (k), and 173-303-665 (2)(h) and (j). The program must ensure that the constructed unit meets or exceeds all design criteria and specifications in the permit. The program must be developed and implemented under the direction of a CQA officer who is a registered professional engineer.

(b) The CQA program must address the following physical components, where applicable:

(i) Foundations;

(ii) Dikes;

(iii) Low-permeability soil liners;

(iv) Geomembranes (flexible membrane liners);

(v) Leachate collection and removal systems and leak detection systems; and

(vi) Final cover systems.

(2) Written CQA plan. The owner or operator of units subject to the CQA program under (a) of this subsection must develop and implement a written CQA plan. The plan must identify steps that will be used to monitor and document the quality of materials and the condition and manner of their installation. The CQA plan must include:

(a) Identification of applicable units, and a description of how they will be constructed.

(b) Identification of key personnel in the development and implementation of the CQA plan, and CQA officer qualifications.

(c) A description of inspection and sampling activities for all unit components identified in subsection (1)(b) of this section, including observations and tests that will be used before, during, and after construction to ensure that the construction materials and the installed unit components meet the design specifications. The description must cover: Sampling size and locations; frequency of testing; data evaluation procedures; acceptance and rejection criteria for construction materials; plans for implementing corrective measures; and data or other information to be recorded and retained in the operating record under WAC 173-303-380.

(3) Contents of program.

(a) The CQA program must include observations, inspections, tests, and measurements sufficient to ensure:

(i) Structural stability and integrity of all components of the unit identified in subsection (1)(b) of this section;

(ii) Proper construction of all components of the liners, leachate collection and removal system, leak detection system, and final cover system, according to permit specifications and good engineering practices, and proper installation of all components (e.g., pipes) according to design specifications;

(iii) Conformity of all materials used with design and other material specifications under WAC 173-303-650, 173-303-660, and 173-303-665.

(b) The CQA program will include test fills for compacted soil liners, using the same compaction methods as in the full scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of WAC 173-303-650 (2)(j)(i)(B), 173-303-660 (2)(j)(i)(B), and 173-303-665 (2)(h)(i)(B) in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The department may accept an alternative demonstration, in lieu of a test fill, where data are sufficient to show that a constructed soil liner will meet the hydraulic conductivity requirements of WAC 173-303-650 (2)(j)(i)(B), 173-303-660 (2)(j)(i)(B), and 173-303-665 (2)(h)(i)(B) in the field.

(4) Certification. Waste will not be received in a unit subject to this section until the owner or operator has submitted to the department by certified mail or hand delivery a certification signed by the CQA officer that the approved CQA plan has been successfully carried out and that the unit meets the requirements of WAC 173-303-650 (2)(j) or (k), 173-303-660 (2)(j) or (k), or 173-303-665 (2)(h) or (j); and the procedure in WAC 173-303-810 (14)(a) has been completed. Documentation supporting the CQA officer's certification must be furnished to the department upon request.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-340 Preparedness and prevention. Facilities ((~~shall~~)) must be designed, constructed, maintained and operated to minimize the possibility of fire, explosion, or any unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, or surface or ground water which could threaten the public health or the environment. This section describes preparations and preventive measures which help avoid or mitigate such situations.

(1) Required equipment. All facilities must be equipped with the following, unless it can be demonstrated to the department that none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction to facility personnel;

(b) A device, such as a telephone or a hand-held, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment; and

(d) Water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.

All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(2) Access to communications or alarms. Personnel must have immediate access to the signalling devices described in the situations below:

(a) Whenever dangerous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in subsection (1) of this section;

(b) If there is ever just one employee on the premises while the facility is operating, he must have immediate access to a device, such as a telephone or a hand-held, two-way radio, capable of summoning external emergency assistance, unless such a device is not required in subsection (1) of this section.

(3) Aisle space. The owner or operator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless it can be demonstrated to the department that aisle space is not needed for any of these purposes.

(4) Arrangements with local authorities. The owner or operator ((~~shall~~)) must attempt to make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of these organizations, unless the hazards posed by wastes handled at the facility would not require these arrangements:

(a) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of dangerous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes;

(b) Arrangements to familiarize local hospitals with the properties of dangerous waste handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility;

(c) Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and

(d) Where more than one party might respond to an emergency, agreements designating primary emergency authority and agreements with any others to provide support to the primary emergency authority.

(5) Where state or local authorities decline to enter into such arrangements, the owner or operator must document the refusal in the operating record.

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AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-350 Contingency plan and emergency procedures. (1) Purpose. The purpose of this section and WAC 173-303-360 is to lessen the potential impact on the public health and the environment in the event of an emergency circumstance, including a fire, explosion, or unplanned sudden or nonsudden release of dangerous waste or dangerous waste constituents to air, soil, surface water, or ground water by a facility. A contingency plan must be developed to lessen the potential impacts of such emergency circumstances, and the plan ((~~shall~~)) will be implemented immediately in such emergency circumstances.

(2) Contingency plan. Each owner or operator must have a contingency plan at his facility for use in emergencies or sudden or nonsudden releases which threaten the public health and the environment. If the owner or operator has already prepared a spill prevention control and countermeasures (SPCC) plan in accordance with Part 112 of Title 40 CFR or Part 1510 of chapter V, or some other emergency or contingency plan, he need only amend that plan to incorporate dangerous waste management provisions that are sufficient to comply with the requirements of this section and WAC 173-303-360.

(3) The contingency plan must contain the following:

(a) A description of the actions which facility personnel must take to comply with this section and WAC 173-303-360;

(b) A description of the actions which ((~~shall~~)) will be taken in the event that a dangerous waste shipment, which is damaged or otherwise presents a hazard to the public health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of WAC 173-303-370(5), Manifest system, reasons for not accepting dangerous waste shipments;

(c) A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services as required in WAC 173-303-340(4);

(d) A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under WAC 173-303-360(1). Where more than one person is listed, one must be named as primary emergency coordinator, and others must be listed in the order in which they will assume responsibility as alternates. For new facilities only, this list may be provided to the department at the time of facility certification (as required by WAC 173-303-810 (14)(a)(i)), rather than as part of the permit application;

(e) A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems, and decontamination equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities; and

(f) An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes.

(4) Copies of contingency plan. A copy of the contingency plan and all revisions to the plan ((~~shall~~)) must be:

(a) Maintained at the facility; and

(b) Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

(5) Amendments. The owner or operator ((~~shall~~)) must review and immediately amend the contingency plan, if necessary, whenever:

(a) Applicable regulations or the facility permit are revised;

(b) The plan fails in an emergency;

(c) The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of dangerous waste or dangerous waste constituents, or in a way that changes the response necessary in an emergency;

(d) The list of emergency coordinators changes; or

(e) The list of emergency equipment changes.

AMENDATORY SECTION (Amending WSR 90-20-016, filed 9/21/90, effective 10/22/90)

WAC 173-303-355 Superfund Amendments and Reauthorization Act Title III coordination. (1) Owners or operators ((~~shall~~)) will coordinate preparedness and prevention planning and contingency planning efforts, conducted under WAC 173-303-340 and 173-303-350, with local emergency planning committees established pursuant to Title III of the 1986 Superfund Amendments and Reauthorization Act.

(2) Appropriate and generally accepted computer models should be utilized to determine the impacts of a potential catastrophic air release due to fire, explosion, or other accidental releases of hazardous constituents. Evacuation plans prepared pursuant to WAC 173-303-350 (3)(d) ((~~shall~~)) will include those effected persons and areas identified through these modelling efforts.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-360 Emergencies. (1) Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, required by WAC 173-303-350(2), all operations and activities at the facility, the location and properties of all wastes handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

(2) Emergency procedures. The following procedures ((~~shall~~)) must be implemented in the event of an emergency.

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(i) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and

(ii) Notify appropriate state or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials.

(c) Concurrently, the emergency coordinator ((~~shall~~)) must assess possible hazards to human health and the environment (considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.

(d) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health or the environment, he must report his findings as follows:

(i) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(ii) He must immediately notify the department and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24-hour toll free number (800) 424-8802).

(e) His assessment report must include:

(i) Name and telephone number of reporter;

(ii) Name and address of facility;

(iii) Time and type of incident (e.g., release, fire);

(iv) Name and quantity of material(s) involved, to the extent known;

(v) The extent of injuries, if any; and

(vi) The possible hazards to human health or the environment outside the facility.

(f) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other dangerous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing released waste, and removing or isolating containers.

(g) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

(h) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(i) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(~~i~~) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and

(ii) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

(j) The owner or operator must notify the department, and appropriate local authorities, that the facility is in compliance with (i) of this subsection before operations are resumed in the affected area(s) of the facility.

(k) The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the department. The report must include:

(i) Name, address, and telephone number of the owner or operator;

(ii) Name, address, and telephone number of the facility;

(iii) Date, time, and type of incident (e.g., fire, explosion);

(iv) Name and quantity of material(s) involved;

(v) The extent of injuries, if any;

(vi) An assessment of actual or potential hazards to human health or the environment, where this is applicable;

(vii) Estimated quantity and disposition of recovered material that resulted from the incident;

(viii) Cause of incident; and

(ix) Description of corrective action taken to prevent reoccurrence of the incident.

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-370 Manifest system. (1) Applicability. The requirements of this section apply to owners and operators who receive dangerous waste from off-site sources.

(2) If a facility receives dangerous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the dangerous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest, as described in subsection (4) of this section, on each copy of the manifest;

(c) Immediately give the transporter at least one copy of the signed manifest;

(d) Within thirty days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(3) If a facility receives, from a rail or water (bulk shipment) transporter, dangerous waste which is accompanied by a manifest or shipping paper containing all the information required on the manifest (excluding the EPA/state identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper to certify that the dangerous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies in the manifest or shipping paper, as described in subsection (4) of this section, on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper;

(d) Within thirty days after the delivery, send a copy of the signed and dated manifest or shipping paper to the generator. However, if the manifest is not received within

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thirty days after the delivery, the owner or operator, or his agent, must send a copy of the signed and dated shipping paper to the generator; and

(e) Retain at the facility a copy of each shipping paper and manifest for at least three years from the date of delivery.

(4) Manifest discrepancies.

(a) Manifest discrepancies are significant discrepancies between the quantity or type of dangerous waste designated on the manifest or shipping paper and the quantity or type of dangerous waste a facility actually receives. Significant discrepancies in quantity are variations greater than ten percent in weight for bulk quantities (e.g., tanker trucks, railroad tank cars, etc.), or any variations in piece count for nonbulk quantities (i.e., any missing container or package would be a significant discrepancy). Significant discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the department a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

(5) Reasons for not accepting dangerous waste shipments. The owner or operator may decide that a dangerous shipment should not be accepted by his facility.

(a) The following ((~~shall~~)) will be acceptable reasons for denying receipt of a dangerous waste shipment:

(i) The facility is not capable of properly managing the type(s) of dangerous waste in the shipment;

(ii) There is a significant discrepancy (as described in subsection (4) of this section) between the shipment and the wastes listed on the manifest or shipping paper; or

(iii) The shipment has arrived in a condition which the owner or operator believes would present an unreasonable hazard to facility operations, or to facility personnel handling the dangerous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).

(b) The owner or operator may send the shipment on to the alternate facility designated on the manifest or shipping paper, or contact the generator to identify another facility capable of handling the waste and provide for its delivery to that other facility, unless, the containers are damaged to such an extent, or the dangerous waste is in such a condition as to present a hazard to the public health or the environment in the process of further transportation.

(c) If the dangerous waste shipment cannot leave the facility for the reasons described in (b) of this subsection, then the owner or operator ((~~shall~~)) must take those actions described in the contingency plan, WAC 173-303-350 (3)(b).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-380 Facility recordkeeping. (1) Operating record. The owner or operator of a facility ((~~shall~~)) must keep a written operating record at ((~~his~~)) their facility. The following information ((~~shall~~)) must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description of and the quantity of each dangerous waste received or managed on-site, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by subsection (2) of this section, recordkeeping instructions;

(b) The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each dangerous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses and trial tests required by WAC 173-303-300, General waste analysis, and by 40 CFR sections 264.1034, 264.1063, 265.1034, 265.1063, 268.4(a), and 268.7;

(d) Summary reports and details of all incidents that require implementing the contingency plan, as specified in WAC 173-303-360 (2)(k);

(e) Records and results of inspections as required by WAC 173-303-320 (2)(d), General inspection (except such information need be kept only for five years);

(f) Monitoring, testing, or analytical data, and corrective action where required by 40 CFR Part 265 Subparts F through R and sections 265.1034(c) through (f), 265.1035, 265.1063(d) through (i), and 265.1064 for interim status facilities, and by WAC 173-303-630 through ((~~173-303-680~~)) 173-303-695 and 40 CFR sections 264.1034(c) through (f), 264.1035, 264.1063(d) through (i), and 264.1064 for final status facilities;

(g) All closure and post-closure cost estimates required for the facility; ((~~and~~))

(h) For off-site facilities, copies of notices to generators informing them that the facility has all appropriate permits, as required by WAC 173-303-290, Required notices;

(i) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to 40 CFR 268.5, a petition pursuant to 40 CFR 268.6, or a certification under 268.8, and the applicable notice required by a generator under 40 CFR 268.7(a);

(j) For an off-site treatment facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8;

(k) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8;

(l) For an off-site land disposal facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator of a treatment facility under 40 CFR 268.7 and 268.8, whichever is applicable;

(m) For an on-site land disposal facility, the information contained in the notice required by the generator or owner or operator of a treatment facility under 40 CFR 268.7, except for the manifest number, and the certification and demonstra-

tion if applicable, required under 40 CFR 268.8, whichever is applicable;

(n) For an off-site storage facility, a copy of the notice, and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8; and

(o) For an on-site storage facility, the information contained in the notice (except the manifest number), and the certification and demonstration if applicable, required by the generator or the owner or operator under 40 CFR 268.7 or 268.8.

(2) Recordkeeping instructions. This paragraph provides instructions for recording the portions of the operating record which are related to describing the types, quantities, and management of dangerous wastes at the facility. This information ((~~shall~~)) must be kept in the operating record, as follows:

(a) Each dangerous waste received or managed ((~~shall~~)) must be described by its common name and by its dangerous waste number(s) from WAC 173-303-080 through 173-303-104. Where a dangerous waste contains more than one process waste or waste constituent the waste description must include all applicable dangerous waste numbers. If the dangerous waste number is not listed then the waste description ((~~shall~~)) must include the process which generated the waste;

(b) The waste description ((~~shall~~)) must include the waste's physical form (i.e., liquid, solid, sludge, or gas);

(c) The weight, or volume and density, of the dangerous waste ((~~shall~~)) must be recorded, using one of the units of measure specified in Table 1, below;

TABLE 1

Unit of Measure	Symbol	Density
Pounds	P	
Short tons (2000 lbs)	T	
Gallons (U.S.)	G	P/G
Cubic yards	Y	T/Y
Kilograms	K	
Tonnes (1000 kg)	M	
Liters	L	K/L
Cubic meters	C	M/C

(d) And, the date(s) and method(s) of management for each dangerous waste received or managed (treated, recycled, stored, or disposed of) ((~~shall~~)) must be recorded, using the handling code(s) specified in Table 2, below.

TABLE 2

1. Storage
   - S01 Container (barrel, drum, etc.)
   - S02 Tank
   - S03 Waste pile
   - S04 Surface impoundment
   - S05 Other (specify)
2. Treatment
   - (a) Thermal treatment
   - T06 Liquid injection incinerator
   - T07 Rotary kiln incinerator
   - T08 Fluidized bed incinerator
   - T09 Multiple hearth incinerator
   - T10 Infrared furnace incinerator
   - T11 Molten salt destructor
   - T12 Pyrolysis
   - T13 Wet air oxidation
   - T14 Calcination
   - T15 Microwave discharge
   - T16 Cement kiln
   - T17 Lime kiln
   - T18 Other (specify)
   - (b) Chemical treatment
   - T19 Absorption mound
   - T20 Absorption field
   - T21 Chemical fixation
   - T22 Chemical oxidation
   - T23 Chemical precipitation
   - T24 Chemical reduction
   - T25 Chlorination
   - T26 Chlorinolysis
   - T27 Cyanide destruction
   - T28 Degradation
   - T29 Detoxification
   - T30 Ion exchange
   - T31 Neutralization
   - T32 Ozonation
   - T33 Photolysis
   - T34 Other (specify)
   - (c) Physical treatment
   - (i) Separation of components
   - T35 Centrifugation
   - T36 Clarification
   - T37 Coagulation
   - T38 Decanting
   - T39 Encapsulation
   - T40 Filtration
   - T41 Flocculation
   - T42 Flotation
   - T43 Foaming
   - T44 Sedimentation
   - T45 Thickening
   - T46 Ultrafiltration
   - T47 Other (specify)
   - (ii) Removal of specific components
   - T48 Absorption-molecular sieve
   - T49 Activated carbon
   - T50 Blending
   - T51 Catalysis
   - T52 Crystallization
   - T53 Dialysis
   - T54 Distillation
   - T55 Electrodialysis
   - T56 Electrolysis
   - T57 Evaporation
   - T58 High gradient magnetic separation
   - T59 Leaching
   - T60 Liquid ion exchange
   - T61 Liquid-liquid extraction
   - T62 Reverse osmosis
   - T63 Solvent recovery
   - T64 Stripping
   - T65 Sand filter
   - T66 Other (specify)

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(d) Biological treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic lagoon or tank
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Trickling filter
T76 Waste stabilization pond
T77 Other (specify)
T78-79 (Reserved)

3. Disposal
D80 Underground injection
D81 Landfill
D82 Land treatment
D83 Ocean disposal
D84 Surface impoundment (to be closed as a landfill)
D85 Other (specify)

(3) Availability, retention and disposition of records.

(a) All facility records, including plans, required by this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee, or representative of the department who is designated by the director.

(b) The retention period for all facility records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the director.

(c) A copy of records of waste disposal locations and quantities under this section must be submitted to the United States EPA regional administrator, the department, and the local land use and planning authority upon closure of the facility.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-390 Facility reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

(1) Unmanifested waste reports. If a facility accepts any dangerous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter 173-303 WAC, then the owner or operator must prepare and submit a single copy of a report to the department within fifteen days after receiving the waste. The report form and instructions in the Unmanifested Dangerous Waste Report - Form 6 (which may be obtained from the department) must be used for this report. The report must include at least the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The date the facility received the waste;

(c) The EPA/state identification number, name, and address of the generator and the transporter, if available;

(d) A description and the quantity of each unmanifested dangerous waste the facility received;

(e) The method of management for each dangerous waste;

(f) The certification signed by the owner or operator of the facility or his authorized representative; and

(g) A brief explanation of why the waste was unmanifested, if known.

(2) Annual reports. The owner or operator of a facility that holds an active EPA/state identification number ((~~shall~~)) must prepare and submit a single copy of an annual report to the department by March 1 of each year. The report form and instructions in the ((~~TSD Facility Annual~~)) Dangerous Waste Annual Report ((~~Form 5~~)) (which may be obtained from the department) must be used for this report. In addition, any facility which ships dangerous waste off-site must comply with the annual reporting requirements of WAC 173-303-220. The annual report must cover facility activities during the previous calendar year and must include, but is not limited to the following information:

(a) The EPA/state identification number, name, and address of the facility;

(b) The calendar year covered by the report;

(c) For off-site facilities, the EPA/state identification number of each dangerous waste generator from which the facility received a dangerous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each dangerous waste the facility received during the year. For off-site facilities, this information must be listed by EPA/state identification number of each generator;

(e) The method of treatment, storage, or disposal for each dangerous waste;

(f) The most recent closure cost estimate under WAC 173-303-620(3) (or 40 CFR 265.142 for interim status facilities), and for disposal facilities, the most recent post-closure cost estimate under WAC 173-303-620(5) (or 40 CFR 265.144 for interim status facilities); and

(g) The certification signed in accordance with the requirements of WAC 173-303-810(12).

(3) Additional reports. The owner or operator ((~~shall also~~)) must report to the department:

(a) Releases of dangerous wastes, fires, and explosions as specified in WAC 173-303-360 (2)(k) ((~~and~~)), facility closures specified in WAC 173-303-610(6);

(b) Interim status groundwater monitoring data, as specified in 40 CFR 265.94 (a)(2) and (b)(2);

(c) Facility closures specified in WAC 173-303-610(6); and

(d) As otherwise required by WAC 173-303-645 through 173-303-665, WAC 173-303-690 through 173-303-691, and WAC 173-303-400.

((~~In addition,~~)) The owner or operator ((~~shall~~)) must also submit any other reports (including engineering reports, plans, and specifications) required by the department.

(4) Recordkeeping. The owner/operator of a facility ((~~shall~~)) must keep a copy of all unmanifested waste reports, annual reports, and any other reports submitted to the department according to the requirements of this section for a period of three years from the date the report was submitted.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-395 Other general requirements. (1) Precautions for ignitable, reactive, or incompatible wastes.

(a) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) Where specifically required by other sections of this chapter 173-303 WAC, the treatment, storage, or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

(i) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(ii) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(iii) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions;

(iv) Damage the structural integrity of the facility or device containing the waste; or

(v) Through other like means, threaten human health or the environment.

(c) When required to comply with (a) and (b) of this subsection, the owner or operator must document that compliance in the operating record required under WAC 173-303-380(1). This documentation may be based on references to published scientific or engineering literature, data from trial tests, waste analyses, or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

(d) At least yearly, the owner or operator ((~~shall~~)) must inspect those areas of his facility where ignitable or reactive wastes are stored. This inspection ((~~shall~~)) must be performed in the presence of a professional person who is familiar with the Uniform Fire Code, or in the presence of the local, state, or federal fire marshal. The owner or operator ((~~shall~~)) must enter the following information in his inspection log or operating record as a result of this inspection:

(i) The date and time of the inspection;

(ii) The name of the professional inspector or fire marshal;

(iii) A notation of the observations made; and

(iv) Any remedial actions which were taken as a result of the inspection.

(2) Compliance with other environmental protection laws and regulations. In receiving, storing, handling, treating, processing, or disposing of dangerous wastes, the owner/operator ((~~shall~~)) must design, maintain and operate his dangerous waste facility in compliance with all applicable federal, state and local laws and regulations (e.g., control of stormwater or sanitary water discharge, control of volatile air emissions, etc.).

(3) Asbestos dangerous waste disposal requirements. All asbestos containing waste material ((~~shall~~)) must be disposed of at waste disposal sites which are operated in accordance with 40 CFR Part 61 Subpart M. Such sites will not need to comply with any other standards of chapter 173-303 WAC, if they comply with 40 CFR Part 61.

(4) Loading and unloading areas. TSD facilities which receive or ship manifested shipments of liquid dangerous waste for treatment, storage or disposal must provide for and use an area (or areas) for loading and unloading waste shipments. The loading and unloading area(s) must be designed, constructed, operated and maintained to:

(a) Contain spills and leaks that might occur during loading or unloading;

(b) Prevent release of dangerous waste or dangerous waste constituents to ground or surface waters;

(c) Contain wash waters (if any) resulting from the cleaning of contaminated transport vehicles and load/unload equipment; and

(d) Allow for removal, as soon as possible, of collected wastes resulting from spills, leaks and equipment cleaning (if any) in a manner which assures compliance with (b) of this subsection.

(5) Storage time limit for impoundments and piles.

(a) Except as provided in (b) or (c) of this subsection, dangerous waste ((~~shall~~)) must not be stored in a surface impoundment or waste pile for more than five years after the waste was first placed in the impoundment or pile. For the purposes of this requirement, the five-year limit, for waste regulated under this chapter and being stored in impoundments or piles on the effective date of this requirement, will begin on August 1, 1984. The age of stored wastes must be determined on a monthly basis.

The owner/operator of a surface impoundment or waste pile used for storing dangerous waste must develop a written plan, to be kept at the facility, for complying with the five-year storage limit. The plan must describe the operating conditions, waste identification procedures (for keeping track of the age of the wastes), and a waste removal schedule, and at a minimum the plan must include the following elements:

(i) Methods for identifying the age of dangerous wastes placed in the impoundment or pile;

(ii) Where practical, procedures for segregating wastes of different ages. If the wastes cannot be practically segregated, then the age of all wastes placed in the impoundment or pile ((~~shall~~)) must be deemed the same age as the oldest waste in the impoundment or pile;

(iii) A schedule for removing dangerous waste from the impoundment or pile, or for disposing of them in a timely manner to assure compliance with the five-year limit;

(iv) A description of the actions to be taken according to the schedule required by (a)(iii) of this subsection;

(v) Procedures for noting in the operating record required by WAC 173-303-380(1) that the requirements of this subsection have been satisfied; and

(vi) Such other requirements as the department specifies.

(b) If the owner/operator of a surface impoundment or waste pile can develop a written plan and schedule for developing and implementing a recycling or treatment process for the wastes stored in his impoundment or pile,

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then the department may grant an extension to the storage time limit required in (a) of this subsection. Such extension will be granted only once, will only apply to those dangerous wastes covered by the recycling or treatment plan and which are less than five years old on the date that the plan is approved by the department, and will not exceed five years: *Provided,* That on a case-by-case basis the department may grant an extension of longer than five years, but in no case will any extension be granted for longer than ten years, if the owner/operator of the impoundment or pile can demonstrate to the department's satisfaction that an extension of more than five years will not pose a threat to public health or the environment, and is necessary because: Other treatment or recycling options of shorter durations are not available; the treatment or recycling plan developed by the owner/operator cannot be implemented within five years due to technological circumstances; or, such other reasons as are determined acceptable by the department. Until the department grants the extension by approving the recycling or treatment plan, the owner/operator must continue to comply with the requirements of (a) of this subsection. The recycling or treatment plan and schedule, at a minimum, must:

(i) Specify the wastes which will be recycled or treated in accordance with the plan;

(ii) Describe in detail the recycling or treatment which the owner/operator intends to perform. If the recycling or treatment will involve physical changes to the owner's/operator's facility, the plan must include descriptions of all necessary equipment, processes to be used, site plans, and maps to show any new structures, pipes, channels, waste handling areas, roads, etc.;

(iii) Discuss any permit actions (including issuance or modification) necessary under this chapter, and any other permits which will be required under other federal, state or local laws;

(iv) Establish a schedule for complying with the plan. The schedule must, at a minimum, cover:

(A) The rate at which wastes will be recycled or treated in order to comply with the extension granted by the department;

(B) Construction and equipment installation times as appropriate;

(C) Timing for complying with all required permit actions; and

(D) Such other elements as the department might require;

(v) Describe how the owner/operator will continue to comply with the requirements of (a) of this subsection for all wastes not specified in (b)(i) of this subsection;

(vi) Identify any future occurrences or situations which the owner/operator could reasonably expect to occur and which might cause him to fail to comply with his recycling or treatment plan. The owner/operator must also describe what actions he would take in the event that such occurrences or situations happen;

(vii) Be approved by the department. The plan ((~~shall~~)) must not be implemented until it is approved by the department including, if necessary, issuance or modification of a facility permit as required by this chapter. Any extension granted by the department will begin on the date that the plan is approved, or the date five years after the effective date of this subsection, whichever is later; and

(viii) Include any other elements that the department might require.

(c) The owner/operator of a surface impoundment or waste pile is exempted from the requirements of (a) and (b) of this subsection if:

(i) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that the impoundment or pile is not used primarily for storage, but that it is primarily used to actively and effectively neutralize, detoxify, or other wise treat dangerous waste; or

(ii) The owner/operator of a surface impoundment or waste pile can demonstrate to the department's satisfaction that dangerous waste is removed on a frequent basis (at least four times a year) for treatment, recycling or disposal, provided that the amount of waste removed during any five-year period must equal or exceed the amount of waste placed in the impoundment or pile during that five-year period. However, this exemption does not apply to waste removal which is being performed pursuant to a recycling or treatment plan developed and approved under (b) of this subsection; or

(iii) The owner/operator of a surface impoundment or waste pile has demonstrated, through his permit, closure plan or other instrument, that the impoundment or pile is being operated as a land disposal unit and that it will be closed as a landfill.

(6) Labeling for containers and tanks. The owner or operator must label containers and tanks in a manner which adequately identifies the major risk(s) associated with the contents for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320. For tanks, the label or sign ((~~shall~~)) must be legible at a distance of at least fifty feet. For containers, the owner or operator must affix labels upon transfer of dangerous waste from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-400 Interim status facility standards. (1) Purpose. The purpose of WAC 173-303-400 is to establish standards which define the acceptable management of dangerous waste during the period of interim status and until certification of final closure or, if the facility is subject to post-closure requirements, until post-closure responsibilities are fulfilled.

(2) Applicability.

(a) The interim status standards apply to owners and operators of facilities which treat, store, transfer, and/or dispose of dangerous waste. For purposes of this section, interim status ((~~shall~~)) will apply to all facilities which comply fully with the requirements for interim status under Section 3005(e) of the Federal Resource Conservation and

Recovery Act or WAC 173-303-805. The interim status standards ((~~shall~~)) will also apply to those owners and operators of facilities in existence on November 19, 1980, for RCRA wastes and those facilities in existence on August 9, 1982, for state only wastes who have failed to provide the required notification pursuant to WAC 173-303-060 or failed to file Part A of the permit application pursuant to WAC 173-303-805 (4) and (5). Interim status ((~~shall~~)) will end after final administrative disposition of the Part B permit application is completed, or may be terminated for the causes described in WAC 173-303-805(8).

(b) Interim status facilities must meet the interim status standards by November 19, 1980, except that:

(i) Interim status facilities which handle only state designated wastes (i.e., not designated by 40 CFR Part 261) must meet the interim status standards by August 9, 1982; and

(ii) Interim status facilities must comply with the additional state interim status requirements specified in subsection (3)(c)(ii), (iii) and (v), of this section, by August 9, 1982.

(c) The requirements of the interim status standards do not apply to:

(i) Persons disposing of dangerous waste subject to a permit issued under the Marine Protection, Research and Sanctuaries Act;

(ii) Reserved;

(iii) The owner or operator of a POTW who treats, stores, or disposes of dangerous wastes, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(iv) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment units as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(v) Generators accumulating waste for less than ninety days except to the extent WAC 173-303-200 provides otherwise;

(vi) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(vii) The compaction or sorting, by a generator, of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b)((~~.~~));

(viii) Generators treating dangerous waste on-site in tanks or containers that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3);

(ix) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395 (1)(a).

((~~(d) The owner or operator of an interim status facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the interim status facility standards of this section, but only for those special wastes which he manages and only after the owner or operator has requested and the department has issued a notice of interim status modification.~~)) Reserve.

(3) Standards.

(a) Interim status standards ((~~shall~~)) will be standards set forth by the Environmental Protection Agency in 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA and BB which are incorporated by reference into this regulation (including, by reference, any EPA requirements specified in those subparts which are not otherwise explicitly described in this chapter), and:

(i) The land disposal restrictions of WAC 173-303-140 and the facility requirements of WAC 173-303-280 through 173-303-440; and the corrective action requirements of WAC 173-303-646(2);

(ii) WAC 173-303-630(3), for containers. In addition, for container storage, the department may require that the storage area include secondary containment in accordance with WAC 173-303-630(7), if the department determines that there is a potential threat to public health or the environment due to the nature of the wastes being stored, or due to a history of spills or releases from stored containers. Any new container storage areas constructed or installed after September 30, 1986, must comply with the provisions of WAC 173-303-630(7).

(iii) WAC 173-303-640 (5)(d), for tanks; and

(iv) WAC 173-303-805.

(b) For purposes of applying the interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA and BB to the state of Washington facilities, the federal terms ((~~shall~~)) will have (and in the case of the wording used in the financial instruments referenced in Subpart H of Part 265, ((~~shall~~)) will be replaced with) the following state of Washington meanings:

(i) "Regional administrator" ((~~shall~~)) will mean the "department" except for 40 CFR Parts 270.2; 270.3; 270.5; 270.10(e)(1),(2) and (4); 270.10(f) and (g); 270.11(a)(3); 270.14(b)(20); 270.32(b)(2); and 270.51;

(ii) "Hazardous" ((~~shall~~)) will mean "dangerous"; ((~~and~~))

(iii) "Compliance procedure" ((~~shall~~)) will have the meaning set forth in WAC 173-303-040, Definitions;

(iv) "EPA hazardous waste numbers" will mean "dangerous waste numbers".

(c) In addition to the changes described in (b) of this subsection, the following modifications ((~~shall~~)) will be made to interim status standards of 40 CFR Part 265 Subparts F through R, Subpart W, and Subparts AA and BB:

(i) The words "the effective date of these regulations" ((~~shall~~)) will mean:

(A) November 19, 1980, for facilities which manage any wastes designated by 40 CFR Part 261;

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(B) For wastes which become designated by 40 CFR Part 261 subsequent to November 19, 1980, the effective date ((~~shall~~)) will be the date on which the wastes become regulated;

(C) March 12, 1982, for facilities which manage wastes designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261;

(D) For wastes which become designated only by WAC 173-303-080 through 173-303-100 and not designated by 40 CFR Part 261 subsequent to March 12, 1982, the effective date ((~~shall~~)) will be the date on which the wastes become regulated.

(ii) "Subpart N - landfills" ((~~shall~~)) will have an additional section added which reads: "An owner/operator ((~~shall~~)) must not landfill an organic carcinogen or an EHW, as defined by WAC 173-303-080 through 173-303-100, except at the EHW facility at Hanford";

(iii) "Subpart R - underground injection" ((~~shall~~)) will have an additional section which reads: "Owners and operators of wells are prohibited from disposing of EHW or an organic carcinogen designated under WAC 173-303-080 through 173-303-100";

(iv) "Subpart M - land treatment," section 265.273(b) ((~~shall~~)) will be modified to replace the words "Part 261, Subpart D of this chapter" with "WAC 173-303-080";

(v) "Subpart F - ground water monitoring," section 265.91(c) ((~~shall~~)) will include the requirement that: "Groundwater monitoring wells ((~~shall~~)) must be designed, constructed, and operated so as to prevent groundwater contamination. Chapter 173-160 WAC may be used as guidance in the installation of wells";

(vi) "Subpart H - financial requirements" ((~~shall~~)) will have an additional section which reads: "Any owner or operator who can provide financial assurances and instruments which satisfy the requirements of WAC 173-303-620 will be deemed to be in compliance with 40 CFR Part 265 Subpart H". In 40 CFR Parts 265.143(g) and 265.145(g) the following sentence does not apply to the state: "If the facilities covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to ((~~the~~)), and maintained with the Regional Administrators of all such Regions." In addition, the following sections and any cross-reference to these sections are not incorporated by reference: 40 CFR Parts 265.149 and 265.150; and

(vii) "Subpart J - tank systems" section 265.193(a) ((~~shall~~)) will be modified so that the dates by which secondary containment (which meets the requirements of that section) must be provided are the same as the dates in WAC 173-303-640 (4)(a).

(viii) "Subpart J - tank systems" section 265.191(a) ((~~shall~~)) will be modified so that the date by which an assessment of a tank system's integrity must be completed is January 12, 1990.

(ix) "Subpart G - closure and post-closure" section 265.115 ((~~shall~~)) will be modified to read "Within 60 days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas) and within 60 days of completion of final closure..." In addition, the clean-up levels for removal or decontamination set forth at WAC 173-303-610 (2)(b) apply.

(x) "Subpart B - general facility standards. References to "EPA" (etc.), means the "department" except at 40 CFR 265.11. Additionally, references to "administrator" (etc.), means the "director" except at 40 CFR 265.12(a)."

(xi) The following sections and any cross-reference to these sections are not incorporated or adopted by reference:

(A) 40 CFR Parts 260.1 (b)(4)-(6) and 260.20-22.

(B) 40 CFR Parts 264.1 (d) and (f); 265.1 (c)(4); 264.149-150 and 265.149-150; 264.301(k); and 265.430.

(C) 40 CFR Parts 268.5 and 6; 268 Subpart B; 268.42(b); and 268.44.

(D) 40 CFR Parts 270.1 (c)(1)(i); 270.60(b); and 270.64.

(E) 40 CFR Parts 124.1 (b)-(e); 124.4; 124.5(e); 124.9; 124.10 (a)(1)(iv); 124.12(e); 124.14(d); 124.15 (b)(2); 124.16; 124.17(b); 124.18; 124.19; and 124.21.

(F) 40 CFR Parts 2.106(b); 2.202(b); 2.205(i); 2.209 (b)-(c); 2.212-213; and 2.301-311.

(4) The requirements of this section apply to owners or operators of all facilities that treat, store or dispose of hazardous waste referred to in 40 CFR Part 268, and the 40 CFR Part 268 standards are considered material conditions or requirements of the interim status standards incorporated by reference in subsection (3) of this section.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-500 Recycling requirements for state-only dangerous waste. (1) Applicability. This section applies to the recycling of state-only dangerous waste that are not regulated as hazardous wastes (defined in WAC 173-303-040) by EPA.

(2) Standards.

(a) If state-only dangerous wastes are recycled in any of the ways described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the respective requirements of WAC 173-303-505 through 173-303-525, except as provided in (c) of this subsection.

(b) If state-only dangerous wastes are recycled in any way not specifically described in WAC 173-303-505 through 173-303-525, then such recycling is subject to the requirements of WAC 173-303-120(4), except as provided in (c) of this subsection.

(c) Recyclers who receive state-only dangerous wastes from off-site and who store the wastes in containers or tanks may, in lieu of the provisions for storing dangerous wastes prior to recycling, comply with:

(i) WAC 173-303-060;

(ii) WAC 173-303-370 (if the dangerous waste received must be accompanied by a manifest); and

(iii) The following requirements, provided that the dangerous waste is recycled within ninety days of the date it is received by the recycler:

(A) WAC 173-303-330 through 173-303-360;

(B) WAC 173-303-630 (2), (3), (4), (5), (6), (8) and (9), for containers;

(C) WAC 173-303-640 (3), (4), (5), (6) and (7), for tanks; and

(D) WAC 173-303-630(7) for new container areas installed after September 30, 1986, and WAC 173-303-640(2) for new tanks installed after September 30, 1986.

(d) The department may require a recycler who is storing his waste under the provisions of (c) of this subsection to comply with the provisions for storing dangerous waste prior to recycling specified in WAC 173-303-505 through 173-303-525 and 173-303-120(4) if:

(i) The recycler fails to comply with the requirements of (c) of this subsection; or

(ii) The department determines, on a case-by-case basis, that the requirements of (c) of this subsection do not adequately protect public health or the environment.

(3) Relief from standards. The owner/operator of a facility recycling dangerous wastes under the provisions of this section may ask the department to provide relief from any of the applicable requirements of this section. Requests for relief must be submitted as described in (a) of this subsection. Requests for relief will be approved or denied as described in (b) of this subsection.

(a) A request for relief must be submitted by the recycler to the department in writing and must describe the standards from which the recycler is seeking relief. The request must include:

(i) The facility name, EPA/state identification number, address, telephone number, and a contact person at the facility;

(ii) The waste(s) managed at the facility and the type(s) recycling;

(iii) The specific standards from which the owner/operator seeks relief;

(iv) A description, for each standard, demonstrating:

(A) Why the owner/operator believes the standard to be unnecessary;

(B) How public health and the environment will continue to be protected if the standard is not applied to the facility; and

(C) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and

(v) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required may result in the department's denying the owner's/operator's request.

(b) The department will review any requests submitted pursuant to (a) of this subsection, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the recycler of its decision in writing. If the department decides to approve all or part of the request and the recycler agrees with the department's decision, then the department will proceed to grant the approval as described below. No approval ((~~shall~~)) will be effective until the procedures described below have been completed.

(i) For facilities which are required to have a final facility permit, the department ((~~shall~~)) will follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit ((~~shall~~)) will include the standards the owner/operator must meet.

(ii) For all other types of recycling facilities, the department ((~~shall~~)) will issue a notice of modification stating what standards will be applied. Before issuing the notice of modification, the department ((~~shall~~)) will provide public notice of its intent, ((~~shall~~)) will allow thirty days for public comment, and ((~~shall~~)) will hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing ((~~shall~~)) will be provided at least fifteen days in advance, and the public comment period ((~~shall~~)) will be extended to include the date of the hearing if it will occur after the initial thirty-day comment period. Within fifteen days of the end of the public comment period the department ((~~shall~~)) will, based on comments received, issue, modify and issue, or deny the notice of modification.

(c) Failure to comply with the conditions and standards as stated in the permit or notice of modification issued under (b) of this subsection ((~~shall~~)) will form a basis for modifying or revoking the permit or notice of modification.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-505 Special requirements for recyclable materials used in a manner constituting disposal. (1) Applicability.

(a) This section applies to recyclable materials that are applied to or placed on the land:

(i) Without mixing with any other substance(s); or

(ii) After mixing or combining with any other substance(s). These materials will be referred to as "materials used in a manner that constitutes disposal."

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if such products meet the applicable treatment standards in 40 CFR Part 268 Subpart D (or applicable prohibition levels in 268.32 or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain. Registered commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.

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(2) Recyclable materials used in a manner that constitutes disposal are dangerous wastes and are subject to the following requirements:

(a) For generators, WAC 173-303-170 through 173-303-230;

(b) For transporters, WAC 173-303-240 through 173-303-270; and

(c) For facilities that store or use dangerous wastes in a manner constituting disposal, the applicable requirements of 40 CFR Part 268 (incorporated by reference in WAC 173-303-140(2)(a) and WAC 173-303-280 through 173-303-840 (except that users of such products are not subject to these standards if the products meet the requirements of subsection (1)(b) of this section).

AMENDATORY SECTION (Amending Order 92-32, filed 1/5/93, effective 2/5/93)

WAC 173-303-506 Special requirements for the recycling of spent CFC or HCFC refrigerants. (1) Applicability.

(a) This section applies to spent chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants that are reclaimed or recycled. Refrigerants eligible for these special requirements are those CFCs and HCFCs that were used as heat transfer material in a refrigeration cycle in totally enclosed heat transfer equipment and are subsequently reclaimed or recycled.

(b) Persons who generate, transport, or store spent CFC or HCFC refrigerants prior to reclamation or recycling and facilities that reclaim or recycle spent CFC or HCFC refrigerants are subject to the requirements of this section, and WAC 173-303-050, 173-303-145, and 173-303-960. Spent CFC or HCFC refrigerants that are not reclaimed or recycled are subject to all the applicable requirements of chapter 173-303 WAC. Any discharge of spent CFCs or HCFCs to the environment constitutes disposal and is subject to full regulation under chapter 173-303 WAC.

(2) Generator requirements.

(a) Persons who reclaim or recycle their spent CFC or HCFC refrigerants, either on-site or send their wastes off-site to be reclaimed or recycled, ((~~shall~~)) must keep records for a period of at least five years from the date of reclamation/recycling to document:

(i) The date of shipment (if sent off-site);

(ii) The quantity (by weight) reclaimed/recycled per shipment (when sent off-site) or batch (when recycled on-site);

(iii) The percentage of the total amount of CFC or HCFC wastes reclaimed/recycled per shipment or batch (and the manner of disposal for the remaining CFCs or HCFCs); and

(iv) The dates of reclamation/recycling.

(b) For CFCs or HCFCs sent off-site, the generator must obtain a signed document from the reclamation facility certifying the information in (a) of this subsection.

(3) Reclamation facility requirements.

(a) Facilities that reclaim or recycle CFC or HCFC refrigerants ((~~shall~~)) must comply with all the requirements of WAC 173-303-500 (except for WAC 173-303-500 (2)(c)(ii)). The applicable provisions of the following sections will also apply:

(i) WAC 173-303-280(2), General requirements for dangerous waste management facilities, imminent hazard;

(ii) WAC 173-303-283, Performance standards;

(iii) WAC 173-303-290 (1) and (2), Required notices;

(iv) WAC 173-303-380, Facility recordkeeping; except for WAC 173-303-380 (1)(c), (e), and (h);

(v) WAC 173-303-390(3), Facility reporting;

(vi) WAC 173-303-630(10), Use and management of containers;

(vii) WAC 173-303-640 (1), (2), (8), and (10), Tank systems, except WAC 173-303-640 (8)(c) and the second sentence of WAC 173-303-640 (8)(a) (i.e., a recycler, unless otherwise required to do so, does not have to prepare a closure plan, a cost estimate for closure, or provide financial responsibility for his tank system to satisfy the requirements of this section).

(b) The reclamation facility must supply generators with a signed document certifying the information in subsection (2)(a) of this section.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-510 Special requirements for dangerous wastes burned for energy recovery. (1) Applicability.

(a) This section applies to generators, marketers, transporters, blenders, and burners of dangerous waste fuels that are to be burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of 40 CFR Part 265 or WAC 173-303-670, except as provided by (b) of this subsection. These regulations do not apply to gas recovered from dangerous waste management activities when such gas is burned for energy recovery. Note: (All generators, transporters, and burners of federally regulated hazardous waste fuels that are to be burned for energy recovery, and all storage facility owners and operators of facilities that store dangerous waste that is burned in a boiler or industrial furnace must comply with the requirements of 40 CFR Part 266 Subpart H.)

(b) The following dangerous wastes are not subject to regulation under this section:

(i) Used oil burned for energy recovery if it is a dangerous waste because it:

(A) Exhibits a characteristic of dangerous waste identified in WAC 173-303-090; or

(B) Is designated as DW only through the criteria of WAC 173-303-100; or

(C) Is a dangerous waste designated solely as W001.

Such used oil is subject to regulation under WAC 173-303-515 or chapter 173-354 WAC rather than this section.

Note: Used oil burned for energy recovery containing a listed waste (unless such listed waste is only state source W001) or a waste designated as EHW through the criteria of WAC 173-303-100 (a) and (b) is subject to this section.

(ii) (Reserved.)

(2) Definitions. Any terms used in this section that are not defined below ((~~shall~~)) will have the meanings provided in WAC 173-303-040. For the purposes of this section, the following terms ((~~shall~~)) will have the described meanings:

(a) "Dangerous waste fuel" means dangerous waste burned or to be burned for energy recovery. Fuel produced

from dangerous waste by processing, blending, or other treatment is also dangerous waste fuel.

(b) "Distributor" means persons who distribute but do not process or blend dangerous waste fuel. Distributors may broker fuel by arranging for the final disposition of the fuel. Distributors are regulated under subsection (6) of this section.

(c) "Blender" means persons who produce, process, or blend fuel from dangerous wastes. Blenders are regulated under subsection (7) of this section.

(d) "Marketer" means persons who are:

(i) Generators who market dangerous waste fuel directly to a burner. Generators are regulated under subsection (4) of this section;

(ii) Distributors, regulated under subsection (6) of this section;

(iii) Blenders, regulated under subsection (7) of this section.

(3) Prohibitions.

(a) A person may market dangerous waste fuel only:

(i) To persons, in state, who have notified the department of their dangerous waste fuel activities under WAC 173-303-060 and have an EPA/state identification number or to out-of-state marketers or burners who have notified the EPA or authorized state agency and who have an EPA/state identification number; and

(ii) When marketed to a burner, to persons who burn the fuel in boilers or industrial furnaces identified in (b) of this subsection.

(b) Dangerous waste fuel may be burned for energy recovery in the following devices only;

(i) Industrial furnaces identified in WAC 173-303-040;

(ii) Boilers, as defined in WAC 173-303-040, that are identified as follows:

(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

(B) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(c) No fuel which contains any dangerous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than five hundred thousand (based on the most recent census statistics) unless such kiln fully complies with regulations under this chapter that are applicable to incinerators.

(4) Standards applicable to generators of dangerous waste fuel.

(a) All generators of dangerous waste that is used as a fuel or used to produce a fuel are subject to WAC 173-303-170 through 173-303-230.

(b) Generators who are marketers. Generators are marketers if they send their waste fuel directly to a burner. Generators who are marketers must:

(i) Prohibitions. Comply with the prohibitions under subsection (3) of this subsection.

(ii) Notification. Comply with the notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Generators who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(iii) Accumulation. Comply with accumulation requirements of WAC 173-303-200 or 173-303-201.

(iv) Storage. For generators who have interim or final status and exceed the accumulation time frames referenced in (b)(iii) of this subsection, comply with the storage provisions of:

(A) WAC 173-303-280 through 173-303-395; and

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-680 for final status facilities.

(v) Required notice. Obtain, prior to initiating the first shipment of dangerous waste fuel, a one time written and signed certification notice from the burner certifying that:

(A) The burner has notified as described under subsection (3) of this subsection; and

(B) The burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this subsection.

(vi) Recordkeeping. Keep a copy of each certification notice received for at least five years from the date of the last dangerous waste fuel shipment to the burner who sent such notice.

(c) Generators who are burners also are subject to subsection (8) of this section.

(5) Standards applicable to transporters of dangerous waste fuel. Transporters of dangerous waste fuel (and dangerous waste that is used to produce a fuel) are subject to the requirements of WAC 173-303-240 through 173-303-270.

(6) Standards applicable to distributors of dangerous waste fuel.

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Distributors who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Storage. Distributors who store dangerous waste fuels must comply with the applicable storage provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-680 for final status facilities;

(iv) The standards for generators in WAC 173-303-170 through 173-303-230.

(d) Off-site shipment. A distributor must meet the standards for generators in WAC 173-303-170 through 173-303-230 when the distributor initiates a shipment of dangerous waste fuel. Except that a distributor may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another distributor, a blender, or a burner, a distributor must obtain a one-time written and signed

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certification notice from the distributor, blender, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another distributor or blender, the distributor must provide the other distributor or blender with a one-time written and signed certification that the distributor has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A distributor must keep a copy of each certification notice received or sent for at least five years from the date the distributor last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(7) Standards applicable to blenders of dangerous waste fuels.

(a) Prohibitions. The prohibitions under subsection (3) of this section.

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. Blenders who have previously notified the department of their dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify their dangerous waste fuel activities.

(c) Facility. For tanks, containers, or other units used to hold dangerous waste prior to blending or processing; for blending or processing tanks, containers, or other units; and for tanks, containers, or other units, used to hold blended or processed fuel, blenders must comply with the applicable provisions of:

(i) WAC 173-303-280 through 173-303-395; and

(ii) WAC 173-303-800 through 173-303-840; and

(iii) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-680 for final status facilities;

(d) Off-site shipment. The standards for generators in WAC 173-303-170 through 173-303-230 when a blender initiates a shipment of dangerous waste fuel, except that a blender may not accumulate dangerous waste fuels under the accumulation provisions of WAC 173-303-200 or 173-303-201;

(e) Required notices.

(i) Before initiating the first shipment of dangerous waste fuel to another blender, a distributor, or a burner, a blender must obtain a one-time written and signed certification notice from the blender, distributor, or burner certifying that:

(A) The burner, distributor, or blender has notified as described under subsection (3) of this section; and

(B) If the recipient is a burner, the burner will burn the dangerous waste fuel only in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(ii) Before accepting the first shipment of dangerous waste fuel from another blender or distributor, the blender must provide the other blender or distributor with a one-time written and signed certification that the blender has complied with the notification requirements described in subsection (3) of this section; and

(f) Recordkeeping. A blender must keep a copy of each certification notice received or sent for at least five years from the date the blender last engaged in a dangerous waste fuel marketing transaction with the person who sent or received the certification notice.

(8) Standards applicable to burners of dangerous waste fuel.

Owners and operators of industrial furnaces and boilers identified in subsection (3)(b) of this section must comply with:

(a) Prohibitions. The prohibitions under subsection (3) of this section;

(b) Notification. Notification requirements under WAC 173-303-060 for dangerous waste fuel activities. A burner who has previously notified the department of dangerous waste management activities and obtained an EPA/state identification number, must renotify to identify the dangerous waste fuel activities;

(c) Storage.

(i) For short term accumulation by generators who burn their dangerous waste fuel on-site, the applicable provisions of WAC 173-303-200 or 173-303-201.

(ii) For all burners who store dangerous waste fuel, the applicable storage provisions of:

(A) WAC 173-303-280 through 173-303-395;

(B) WAC 173-303-800 through 173-303-840; and

(C) WAC 173-303-400 for interim status facilities or WAC 173-303-600 through 173-303-680 for final status facilities;

(d) Required notices. Before a burner accepts the first shipment of dangerous waste fuel from a distributor, or a blender, or a generator the burner must provide the distributor, or the blender, or the generator a one-time written and signed notice certifying that:

(i) The burner has notified as described under subsection (3) of this section; and

(ii) The dangerous waste fuel will only be burned in an industrial furnace or boiler identified in subsection (3)(b) of this section.

(e) Recordkeeping. In addition to the applicable recordkeeping requirements of WAC 173-303-380, a burner must keep a copy of each certification notice sent for at least five years from the date the burner last receives dangerous waste fuel from the person who received the certification notice.

(f) Local requirements. Any person who burns dangerous waste for energy recovery must comply with air emission requirements of the local air pollution control authority (or department of ecology if no local authority with jurisdiction exists).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-550 ((~~Special requirements for facilities managing special waste.~~)) Reserved. ((~~(1) Purpose. Special wastes (as defined in WAC 173-303-040) pose less risk to public health and the environment than do other dangerous wastes, therefore, they do not require as high a level of regulation. The purpose of WAC 173-303-550 through 173-303-560 is to set forth those mandatory standards which are minimally acceptable for managing~~

~~special waste, and the criteria and selective standards which will be applied based on the specific risks posed by such wastes.~~

~~(2) Applicability. The requirements of WAC 173-303-550 through 173-303-560 apply to owners and operators of facilities which manage special waste, and are only applicable to such special wastes as are being managed. Whenever a special waste is shipped from a facility, the owner or operator must comply with WAC 173-303-170 through 173-303-230, requirements for generators.~~

~~(3) Standards. The owner/operator of a facility managing special wastes must comply with all applicable standards of this chapter unless he requests (as described in subsection (4) of this section) and the department approves (as described in subsection (5) of this section) the application of less stringent standards to his facility. The owner/operator may request relief from any standards except those minimum standards specified in WAC 173-303-560. Failure to comply with an approval issued by the department pursuant to subsection (5) of this section, will be a violation of this chapter. Failure to comply with all applicable requirements of this chapter while the department is considering a request or after a request has been denied will be a violation of this chapter.~~

~~(4) Request. The owner/operator may request that less stringent standards be applied to his special waste management activities in any manner or form that he chooses. His request must be submitted in writing to the department, and must include:~~

~~(a) The facility name, EPA/state identification #, address, telephone number, and a contact person at the facility;~~

~~(b) The special waste(s) managed at the facility and the type(s) of management applied to them;~~

~~(c) The specific standards from which the owner/operator seeks relief;~~

~~(d) A description, for each standard, demonstrating:~~

~~(i) Why the owner/operator believes the standard to be unnecessary;~~

~~(ii) How public health and the environment will continue to be protected if the standard is not applied to the facility; and~~

~~(iii) Any evidence supporting the contention that public health and the environment will be adequately protected if the standard is not applied (e.g., test data, diagrams, experiences at similar facilities, records, reports, etc.); and~~

~~(e) The following certification, signed and dated by a person who would be authorized to sign a report under WAC 173-303-810 (12)(b):~~

~~"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this request and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."~~

~~The department may ask for any additional information it deems necessary, and will not consider approval of the owner's/operator's request until all necessary information has been submitted. Failure to provide any of the information required by this subsection may result in the department's denying the owner's/operator's request.~~

~~(5) Approval or denial. The department will review any requests submitted pursuant to subsection (4) of this section, and based on the adequacy of the information provided in the request will approve or deny all or any part of the request. The department will notify the owner/operator of its decision in writing. Approval of a request will not be final until the permit has been modified or issued as described in (a) or (b) of this subsection. If the department decides to approve all or part of the request and the owner/operator agrees with the department's decision, then the department will proceed to grant such approval as follows:~~

~~(a) Interim status facilities. For a facility which qualifies for interim status (as described in WAC 173-303-805), the department shall issue a notice of interim status modification in accordance with WAC 173-303-805(9) stating what standards the owner/operator must meet;~~

~~(b) Final facilities.~~

~~(i) For facilities which are required to have a final facility permit, the department shall follow the procedures for issuing (or, for facilities which already have a final facility permit, the procedures for modifying) a final facility permit, as described in WAC 173-303-806. The new or modified final facility permit shall include the standards the owner/operator must meet.~~

~~(ii) The department may request that an applicant for a final facility permit submit his planned special waste demonstrations (prepared in accordance with subsection (4) of this section) a maximum of three months prior to submittal of his Part B application.~~))

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-560 (~~**Minimum standards for facilities managing special waste.**~~)) **Reserved.** (~~In no case will the department approve standards for facilities managing special waste which do not include, at a minimum, the following applicable requirements:~~

~~(1) WAC 173-303-060;~~
~~(2) WAC 173-303-283;~~
~~(3) WAC 173-303-350;~~
~~(4) WAC 173-303-360;~~
~~(5) WAC 173-303-370;~~
~~(6) WAC 173-303-380; and~~
~~(7) WAC 173-303-390.~~))

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-600 Final facility standards. Purpose, scope, and applicability.

(1) The purpose of WAC 173-303-600 through 173-303-680, is to establish minimum state-wide standards which describe the acceptable management of dangerous waste. In addition to WAC 173-303-600 through 173-303-680, the final facility standards include WAC 173-303-280 through 173-303-395.

(2) The final facility standards apply to owners and operators of all facilities which treat, store or dispose of dangerous waste, and which are not exempted by subsection (3) of this section.

(3) The final facility standards do not apply to:

(a) Persons whose disposal activities are permitted under the Marine Protection, Research and Sanctuaries Act, except that storage, or treatment facilities where dangerous waste is loaded onto an ocean vessel for incineration or disposal at sea are subject to final facility standards;

(b) Persons whose disposal activities are permitted under the underground injection control program of the Safe Drinking Water Act, except that storage, or treatment facilities needed to handle dangerous wastes are subject to final facility standards;

(c) The owner or operator of a POTW which treats, stores, or disposes of dangerous waste provided he has a permit by rule pursuant to the requirements of WAC 173-303-802(4);

(d) A generator accumulating waste on site in compliance with WAC 173-303-200;

(e) The owner or operator of a facility which is permitted to manage solid waste pursuant to chapter 173-304 WAC, if the only dangerous waste the facility manages is excluded from regulation under this chapter by WAC 173-303-070(8);

(f) A farmer disposing of waste pesticides from his own use provided he complies with WAC 173-303-160 (2)(b);

(g) A transporter storing a manifested shipment of dangerous waste for ten days or less in accordance with WAC 173-303-240(5);

(h) Any person, other than an owner or operator who is already subject to the final facility standards, who is carrying out an immediate or emergency response to contain or treat a discharge or potential discharge of a dangerous waste or hazardous substance;

(i) The owner or operator of a facility which is in compliance with the interim status requirements of WAC 173-303-400 and 173-303-805, until final administrative disposition of his final facility permit;

(j) The owner or operator of a totally enclosed treatment facility or elementary neutralization or wastewater treatment unit as defined in WAC 173-303-040, provided that he has a permit by rule pursuant to the requirements of WAC 173-303-802(5);

(k) The addition, by a generator, of absorbent material to waste in a container, or of waste to absorbent material in a container, provided that these actions occur at the time the waste is first placed in containers or, in the case of repackaging of previously containerized waste into new containers, at the time the waste is first placed into the new containers and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b);

(l) The compaction or sorting of miscellaneous waste forms such as cans, rags, and bottles in a container, so long as the activity is solely for the purpose of reducing waste void space, and so long as these activities are conducted in a manner that protects human health and prevents any release to the environment and the generator complies with WAC 173-303-200 (1)(b) and 173-303-395 (1)(a) and (b); ((~~and~~))

(m) Generators treating dangerous waste on-site in tanks or containers that are used for accumulation of such wastes provided the generator complies with the WAC 173-303-170(3); and

(n) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in WAC 173-303-040, provided that if the owner or operator is diluting hazardous ignitable (D001) wastes (other than the D001 High TOC Subcategory defined in 40 CFR section 268.40, Table Treatment Standards for Hazardous Wastes), or reactive (D003) waste, to remove the characteristic before land disposal, the owner/operator must comply with the requirements set out in WAC 173-303-395(1)(a).

(4) ((~~The owner or operator of a final status TSD facility which manages special waste may comply with the special requirements selected under WAC 173-303-550 through 173-303-560 in lieu of the final facility standards of WAC 173-303-600 through 173-303-670, but only for those special wastes which he manages and only after the department has issued or modified his final facility permit in accordance with WAC 173-303-800 through 173-303-840 to incorporate the special requirements.~~)) Reserve.

(5) The owner or operator of a facility which recycles dangerous waste may, for such recycled wastes only, comply with the applicable recycling standards specified in WAC 173-303-120 and 173-303-500 through 173-303-525 in lieu of the final facility standards.

(6) The owner or operator must comply with the special land disposal restrictions for certain dangerous wastes in WAC 173-303-140.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-610 Closure and postclosure. (1) Applicability.

(a) Subsections (2) through (6) of this section, (which concern closure), apply to the owners and operators of all dangerous waste facilities.

(b) Subsections (7) through (11) of this section, (which concern postclosure care), apply to the owners and operators of all regulated units (as defined in WAC 173-303-040) at which dangerous waste will remain after closure, to tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills, to surface impoundments, waste piles, and miscellaneous units as specified in WAC 173-303-650(6), 173-303-660(9), and 173-303-680(4), respectively; to containment buildings that are required under 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695) to meet the requirements for landfills; and, unless otherwise authorized by the department, to the owners and operators of all facilities which, at closure, cannot meet the removal or decontamination limits specified in subsection (2)(b) of this section.

(c) For the purposes of the closure and postclosure requirements, any portion of a facility which closes is subject to the applicable closure and postclosure standards even if the rest of the facility does not close and continues to operate.

(2) Closure performance standard. The owner or operator must close the facility in a manner that:

(a)(i) Minimizes the need for further maintenance;

(ii) Controls, minimizes or eliminates to the extent necessary to protect human health and the environment, postclosure escape of dangerous waste, dangerous constituents, leachate, contaminated run-off, or dangerous waste

decomposition products to the ground, surface water, ground water, or the atmosphere; and

(iii) Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous dangerous waste activity.

(b) Where the closure requirements of this section, or of WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), ((~~or~~)) 173-303-680 (2) through (4), or 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695) call for the removal or decontamination of dangerous wastes, waste residues, or equipment, bases, liners, soils or other materials containing or contaminated with dangerous wastes or waste residue, then such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed:

(i) For soils, ground water, surface water, and air, the numeric cleanup levels calculated using residential exposure assumptions according to the Model Toxics Control Act Regulations, chapter 173-340 WAC as now or hereafter amended. Primarily, these will be numeric cleanup levels calculated according to MTCA Method B, although MTCA Method A may be used as appropriate, see WAC 173-340-700 through 173-340-760, excluding WAC 173-340-745; and

(ii) For all structures, equipment, bases, liners, etc., clean closure standards ((~~shall~~)) will be set by the department on a case-by-case basis in accordance with the closure performance standards of WAC 173-303-610 (2)(a)(ii) and in a manner that minimizes or eliminates post-closure escape of dangerous waste constituents.

(3) Closure plan; amendment of plan.

(a) The owner or operator of a dangerous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the dangerous waste at partial or final closure are required by WAC 173-303-650(6) and 173-303-660(9) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with WAC 173-303-806(4), and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved closure plan will become a condition of any permit. The department's decision must assure that the approved closure plan is consistent with subsections (2), (3), (4), (5), and (6) of this section, and the applicable requirements of WAC 173-303-630(10), 173-303-640(8), 173-303-645, 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), ((~~and~~)) 173-303-680(2), and 40 CFR 264.1102 (incorporated by reference at WAC 173-303-695). A copy of the approved plan and all revisions to the plan must be furnished to the department upon request, including request by mail until final closure is completed and certified in accordance with subsection (6) of this section. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include at least:

(i) A description of how each dangerous waste management unit at the facility will be closed in accordance with subsection (2) of this section;

(ii) A description of how final closure of the facility will be conducted in accordance with subsection (2) of this section. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility;

(iii) An estimate of the maximum inventory of dangerous wastes ever on-site over the active life of the facility. (Any change in this estimate is a minor modification under WAC 173-303-830(4));

(iv) A detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all dangerous wastes, and identification of the type(s) of the off-site dangerous waste management units to be used, if applicable;

(v) A detailed description of the steps needed to remove or decontaminate all dangerous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(vi) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground water monitoring, leachate collection, and run-on and run-off control; and

(vii) A schedule for closure of each dangerous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each dangerous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all dangerous waste inventory and of the time required to place a final cover must be included.) Additionally, for facilities that use trust funds to establish financial assurance under WAC 173-303-620 (4) or (6) and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(b) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the applicable procedures in WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended closure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved closure plan whenever:

(A) Changes in operating plans or facility design affect the closure plan; or

(B) There is a change in the expected year of closure, if applicable; or

(C) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(iii) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to prepare a contingent closure plan under WAC 173-303-650(6) or 173-303-660(9), must submit an amended closure plan to the department no later than sixty days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665, or no later than thirty days from that date if the determination is made during partial or final closure. The department will approve, disapprove, or modify this amended plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved closure plan will become a condition of any permit issued.

(iv) The department may request modifications to the plan under the conditions described in (b)(ii) of this subsection. The owner or operator must submit the modified plan within sixty days of the department's request, or within thirty days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the department will be approved in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(c) Notification of partial closure and final closure.

(i) The owner or operator must notify the department in writing at least sixty days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment, or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the department in writing at least forty-five days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(ii) The date when he "expects to begin closure" must be either:

(A) No later than thirty days after the date on which any dangerous waste management unit receives the known final volume of dangerous wastes or, if there is a reasonable possibility that the dangerous waste management unit will receive additional dangerous wastes, no later than one year after the date on which the unit received the most recent volume of dangerous waste. If the owner or operator of a dangerous waste management unit can demonstrate to the department that the dangerous waste management unit or facility has the capacity to receive additional dangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit; or

(B) For units meeting the requirements of subsection (4)(d) of this section, no later than thirty days after the date on which the dangerous waste management unit receives the known final volume of nondangerous wastes, or if there is a reasonable possibility that the dangerous waste management unit will receive additional nondangerous wastes, no later than one year after the date on which the unit received the most recent volume of nondangerous wastes. If the owner or operator can demonstrate to the department that the dangerous waste management unit has the capacity to receive additional nondangerous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the department may approve an extension to this one-year limit.

(iii) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order to cease receiving dangerous wastes or to close, then the requirements of (c) of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in subsection (4) of this section.

(iv) Removal of wastes and decontamination or dismantling of equipment. Nothing in this subsection ((~~shall~~)) will preclude the owner or operator from removing dangerous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(4) Closure; time allowed for closure.

(a) Within ninety days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at a dangerous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on site, all dangerous wastes in accordance with the approved closure plan. The department may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, and either:

(i) The activities required to comply with this paragraph will, of necessity, take longer than ninety days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is a reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after receiving the final volume of dangerous wastes, or the final volume of nondangerous wastes if the owner or operator complies with all applicable requirements in (d) and (e) of this subsection, at the dangerous waste management unit or facility. The department may approve an extension to the closure period if the owner or operator complies with all

applicable requirements for requesting a modification to the permit and demonstrates that he has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating dangerous waste management unit or facility, including compliance with all applicable permit requirements, and either:

(i) The partial or final closure activities will, of necessity, take longer than one hundred eighty days to complete; or

(ii)(A) The dangerous waste management unit or facility has the capacity to receive additional dangerous wastes, or has the capacity to receive nondangerous wastes if the owner or operator complies with (d) and (e) of this subsection;

(B) There is reasonable likelihood that he or another person will recommence operation of the dangerous waste management unit or the facility within one year; and

(C) Closure of the dangerous waste management unit or facility would be incompatible with continued operation of the site.

(c) The demonstrations referred to in (a) and (b) of this subsection must be made as follows: The demonstrations in (a) of this subsection must be made at least thirty days prior to the expiration of the specified ninety-day period; and the demonstration in (b) of this subsection must be made at least thirty days prior to the expiration of the specified one hundred eighty-day period unless the owner or operator is otherwise subject to the deadlines in (d) of this subsection.

(d) The department may allow an owner or operator to receive only nondangerous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of dangerous wastes at that unit if:

(i) The owner or operator requests a permit modification in compliance with all applicable requirements in WAC 173-303-830 and 40 CFR Part 124 and in the permit modification request demonstrates that:

(A) The unit has the existing design capacity as indicated on the part A application to receive nondangerous wastes; and

(B) There is a reasonable likelihood that the owner or operator or another person will receive nondangerous wastes in the unit within one year after the final receipt of dangerous wastes; and

(C) The nondangerous wastes will not be incompatible with any remaining wastes in the unit, or with the facility design and operating requirements of the unit or facility under this part; and

(D) Closure of the dangerous waste management unit would be incompatible with continued operation of the unit or facility; and

(E) The owner or operator is operating and will continue to operate in compliance with all applicable permit requirements; and

(ii) The request to modify the permit includes an amended wastes analysis plan, ground water monitoring and response program, human exposure assessment required under RCRA section 3019, and closure and postclosure plan, and updated cost estimates and demonstrations of financial assurance for closure and postclosure care as necessary and appropriate, to reflect any changes due to the presence of dangerous constituents in the nondangerous wastes, and changes in closure activities, including the expected year of closure if applicable under subsection (3)(a)(vii) of this section, as a result of the receipt of nondangerous wastes following the final receipt of dangerous wastes; and

(iii) The request to modify the permit includes revisions, as necessary and appropriate, to affected conditions of the permit to account for the receipt of nondangerous wastes following receipt of the final volume of dangerous wastes; and

(iv) The request to modify the permit and the demonstration referred to in (d)(i) and (ii) of this subsection are submitted to the department no later than one hundred twenty days prior to the date on which the owner or operator of the facility receives the known final volume of dangerous wastes at the unit, or no later than ninety days after the effective date of this rule in the state in which the unit is located, whichever is later.

(e) In addition to the requirements in (d) of this subsection, an owner or operator of a dangerous wastes surface impoundment that is not in compliance with the liner and leachate collection system requirements in 42 U.S.C. 3004 (o)(1) and 3005 (j)(1) or 42 U.S.C. 3004 (o)(2) or (3) or 3005 (j)(2), (3), (4) or (13) must:

(i) Submit with the request to modify the permit:

(A) A contingent corrective measures plan, unless a corrective action plan has already been submitted under WAC 173-303-645(10); and

(B) A plan for removing dangerous wastes in compliance with (e)(ii) of this subsection; and

(ii) Remove all dangerous wastes from the unit by removing all dangerous liquids, and removing all dangerous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(iii) Removal of dangerous wastes must be completed no later than ninety days after the final receipt of dangerous wastes. The department may approve an extension to this deadline if the owner or operator demonstrates that the removal of dangerous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health and the environment.

(iv) If a release that is a statistically significant increase (or decrease in the case of pH) over background values for detection monitoring parameters of constituents specified in the permit or that exceeds the facility's ground water protection standard at the point of compliance, if applicable, is detected in accordance with the requirements in WAC 173-303-645, the owner or operator of the unit:

(A) Must implement corrective measures in accordance with the approved contingent corrective measures plan required by (e)(i) of this subsection no later than one year after detection of the release, or approval of the contingent corrective measures plan, whichever is later;

(B) May continue to receive wastes at the unit following detection of the release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(C) May be required by the department to implement corrective measures in less than one year or to cease the receipt of wastes until corrective measures have been implemented if necessary to protect human health and the environment.

(v) During the period of corrective action, the owner or operator ((~~shall~~)) must provide semiannual reports to the department that describe the progress of the corrective action

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program, compile all ground water monitoring data, and evaluate the effect of the continued receipt of nondangerous wastes on the effectiveness of the corrective action.

(vi) The department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in (e)(iv) of this subsection, or fails to make substantial progress in implementing corrective action and achieving the facility's ground water protection standard or background levels if the facility has not yet established a ground water protection standard.

(vii) If the owner or operator fails to implement corrective measures as required in (e)(iv) of this subsection or if the department determines that substantial progress has not been made pursuant to (e)(vi) of this subsection the department ((~~shall~~)) will:

(A) Notify the owner or operator in writing that the owner or operator must begin closure in accordance with the deadline in (a) and (b) of this subsection and provide a detailed statement of reasons for this determination; and

(B) Provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than twenty days after the date of the notice.

(C) If the department receives no written comments, the decision will become final five days after the close of the comment period. The department will notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, must be submitted within fifteen days of the final notice and that closure must begin in accordance with the deadlines in (a) and (b) of this subsection.

(D) If the department receives written comments on the decision, it ((~~shall~~)) will make a final decision within thirty days after the end of the comment period, and provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the department determines that substantial progress has not been made, closure must be initiated in accordance with the deadlines in (a) and (b) of this subsection.

(E) The final determinations made by the department under (e)(vii)(C) and (D) of this subsection are not subject to administrative appeal.

(5) Disposal or decontamination of equipment, structures and soils. During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in WAC 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), or under the authority of WAC 173-303-680 (2) and (4). By removing any dangerous wastes or dangerous constituents during partial and final closure, the owner or operator may become a generator of dangerous waste and must handle that waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-230.

(6) Certification of closure. Within sixty days of completion of closure of each dangerous waste management unit (including tank systems and container storage areas), and within sixty days of the completion of final closure, the owner or operator must submit to the department by registered mail, a certification that the dangerous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until it releases the owner or operator from the financial assurance requirements for closure under WAC 173-303-620(4).

(7) Postclosure care and use of property.

(a) Postclosure care for each dangerous waste management unit subject to postclosure requirements must begin after completion of closure of the unit and continue for thirty years after that date and must consist of at least the following:

(i) Ground water monitoring and reporting ((~~as applicable~~)) as required by WAC 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(ii) Maintenance and monitoring of waste containment systems as applicable.

(b) Any time preceding partial closure of a dangerous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular unit, the department may, in accordance with the permit modification procedures in WAC 173-303-800 through 173-303-840:

(i) Shorten the postclosure care period applicable to the dangerous waste management unit, or facility, if all disposal units have been closed, if it finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground water monitoring results, characteristics of the dangerous waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the dangerous waste management unit or facility is secure); or

(ii) Extend the postclosure care period applicable to the dangerous waste management unit or facility if it finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of dangerous waste at levels which may be harmful to human health and the environment).

(c) The department may require, at partial or final closure, continuation of any of the security requirements of WAC 173-303-310 during part or all of the postclosure period when:

(i) Dangerous wastes may remain exposed after completion of partial or final closure; or

(ii) Access by the public or domestic livestock may pose a hazard to human health.

(d) Postclosure use of property on or in which dangerous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the department finds that the disturbance:

(i) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(ii) Is necessary to reduce a threat to human health or the environment.

(e) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in subsection (8) of this section.

(8) Postclosure plan; amendment of plan.

(a) The owner or operator of a dangerous waste disposal unit must have a written postclosure plan. In addition, certain surface impoundments and certain piles from which the owner or operator intends to remove or decontaminate the dangerous wastes at partial or final closure are required by WAC 173-303-650 and 173-303-660, respectively, to have written contingent postclosure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent postclosure plans under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department within ninety days from the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the postclosure requirements. The plan must be submitted with the permit application, in accordance with WAC 173-303-806, and approved by the department as part of the permit issuance procedures under WAC 173-303-840. The approved postclosure plan will become a condition of any permit issued.

(b) For each dangerous waste management unit subject to the requirements of this subsection, the postclosure plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:

(i) A description of the planned ground water monitoring activities and frequencies at which they will be performed;

(ii) A description of the planned maintenance activities, and frequencies at which they will be performed to comply with WAC 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680 during the postclosure care period, to ensure:

(A) The integrity of the cap and final cover or other containment structures ((~~where applicable~~)) in accordance with the requirements of 173-303-645, 173-303-650, 173-303-655, 173-303-660, 173-303-665, and 173-303-680; and

(B) The function of the facility monitoring equipment;

(iii) And the name, address, and phone number of the person or office to contact about the dangerous waste disposal unit or facility during the postclosure care period.

(c) Until final closure of the facility, a copy of the approved postclosure plan must be furnished to the department upon request, including request by mail. After final closure has been certified, the person or office specified in (b)(iii) of this subsection must keep the approved postclosure plan during the remainder of the postclosure period.

(d) Amendment of plan. The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved postclosure plan in accordance with the applicable requirements of WAC 173-303-800 through 173-303-840. The written notification or request must include a copy of the amended postclosure plan for review or approval by the department.

(i) The owner or operator may submit a written notification or request to the department for a permit modification to amend the postclosure plan at any time during the active life of the facility or during the postclosure care period.

(ii) The owner or operator must submit a written notification of or request for a permit modification to authorize a change in the approved postclosure plan whenever:

(A) Changes in operating plans or facility design affect the approved postclosure plan; or

(B) There is a change in the expected year of final closure, if applicable; or

(C) Events which occur during the active life of the facility, including partial and final closures, affect the approved postclosure plan.

(iii) The owner or operator must submit a written request for a permit modification at least sixty days prior to the proposed change in facility design or operation, or no later than sixty days after an unexpected event has occurred which has affected the postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all dangerous waste at closure and is not otherwise required to submit a contingent postclosure plan under WAC 173-303-650 or 173-303-660 must submit a postclosure plan to the department no later than ninety days after the date that the owner or operator or department determines that the dangerous waste management unit must be closed as a landfill, subject to the requirements of WAC 173-303-665. The department will approve, disapprove, or modify this plan in accordance with the procedures in WAC 173-303-800 through 173-303-840. The approved postclosure plan will become a permit condition.

(iv) The department may request modifications to the plan under the conditions described in (d)(ii) of this subsection. The owner or operator must submit the modified plan no later than sixty days after the department's request, or no later than ninety days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent postclosure plan. Any modifications requested by the department will be approved, disapproved, or modified in accordance with the procedures in WAC 173-303-800 through 173-303-840.

(9) Notice to local land authority. No later than the submission of the certification of closure of each dangerous waste disposal unit, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department a survey plat indicating the location and dimensions of landfill cells or other dangerous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the dangerous waste disposal unit in accordance with the applicable requirements of this section. In addition, no later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the department, a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For wastes disposed of before November 19, 1980 (March 12, 1982, for facilities subject to this chapter but not subject to 40 CFR Part 264), the owner or operator must identify the

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type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(10) Notice in deed to property.

(a) No later than sixty days after certification of closure of each dangerous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the department a record of the type, location, and quantity of dangerous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes (as defined in WAC 173-303-040) disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the dangerous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within sixty days of certification of closure of the first dangerous waste disposal unit and within sixty days of certification of closure of the last dangerous waste disposal unit, the owner or operator must:

(i) Record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(A) The land has been used to manage dangerous wastes;

(B) Its use is restricted under this section; and

(C) The survey plat and record of the type, location, and quantity of dangerous wastes disposed of within each cell or other dangerous waste disposal unit of the facility required in subsection (9) of this section have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the department; and

(ii) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in (b)(i) of this subsection, including a copy of the document in which the notation has been placed, to the department.

(c) If the owner or operator or any subsequent owner of the land upon which a dangerous waste facility was located wishes to remove dangerous wastes and dangerous waste residues, the liner, if any, or contaminated soils, he must request a modification to the postclosure permit in accordance with the applicable requirements in WAC 173-303-800 through 173-303-840. The owner or operator must demonstrate that the removal of dangerous wastes will satisfy the criteria of subsection (7)(d) of this section. By removing dangerous waste, the owner or operator may become a generator of dangerous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the department approve either:

(i) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(ii) The addition of a notation to the deed or instrument indicating the removal of the dangerous waste.

(11) Certification of completion of postclosure care. No later than sixty days after completion of the established postclosure care period for each dangerous waste disposal unit, the owner or operator must submit to the department, by registered mail, a certification that the postclosure care period for the dangerous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the department upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under WAC 173-303-620(6).

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-620 Financial requirements. (1) Applicability.

(a) The requirements of subsections (3), (4), (7), (8), (9), and (10) of this section, apply to owners and operators of all dangerous waste facilities, except as provided otherwise in this section.

(b) The requirements of subsections (5) and (6) of this section apply ((~~only~~)) to owners and operators of:

(i) Dangerous waste disposal facilities((~~, to~~));

(ii) Tank systems that are required under WAC 173-303-640(8) to meet the requirements of landfills((~~, to~~));

(iii) Miscellaneous units as specified in WAC 173-303-680(4)((~~, and to~~));

(iv) Waste piles and surface impoundments to the extent that WAC 173-303-650 and 173-303-660, respectively, require that such facilities comply with this section; and

(v) Containment buildings that are required under WAC 173-303-695 to meet the requirements for landfills.

(c) States and the federal government, and operators of state or federally owned facilities, are exempt from the requirements of this section, except ((~~that~~)) subsections (3) and (5) of this section. Operators of facilities who are under contract with (but not owned by) the state or federal government must meet all of the requirements of this section.

(2) Definitions. As used in this section, the following listed or referenced terms ((~~shall~~)) will have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of WAC 173-303-610(3);

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with subsection (3) of this section;

(c) "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with subsection (5) of this section;

(d) "Parent corporation" means a corporation which directly owns at least fifty percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation;

(e) "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of WAC 173-303-610 (7), (8), (9), and (10);

(f) "Regional administrator" means the department;

(g) "Hazardous waste" means dangerous waste; and

(h) The additional terms listed and defined in 40 CFR 264.141 (f), (g), and (h) are adopted by reference.

(3) Cost estimate for facility closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in WAC 173-303-610 (2) through (6), and applicable closure requirements in WAC 173-303-630(10), 173-303-640(5), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), ((~~and~~)) 173-303-680 (2) through (4) and 173-303-695. The closure cost estimate:

(i) Must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see WAC 173-303-610 (3)(a));

(ii) Must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility;

(iii) May not incorporate any salvage value that may be realized with the sale of dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure; and

(iv) May not incorporate a zero cost for dangerous wastes, or nondangerous wastes if applicable under WAC 173-303-610 (4)(d), that might have economic value.

(b) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty days after the department has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with this section. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before submission of updated information to the department as specified in subsection (4) of this section. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent *Implicit Price Deflator for Gross National Product* as published by the United States Department of Commerce in its survey of current business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

(i) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest closure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted closure cost estimate.

(4) Financial assurance for facility closure.

(a) An owner or operator of a TSD facility must establish financial assurance for closure of the facility. The owner or operator must choose from the following options or combination of options:

(i) Closure trust fund;

(ii) Surety bond guaranteeing payment into a closure trust fund;

(iii) Surety bond guaranteeing performance of closure;

(iv) Closure letter of credit;

(v) Closure insurance; or

(vi) Financial test and corporate guarantee for closure.

(b) In satisfying the requirements of financial assurance for facility closure in this subsection, the owner or operator ((~~shall~~)) must meet all the requirements set forth in 40 CFR 264.143.

(5) Cost estimate for postclosure monitoring and maintenance.

(a) The owner or operator of a facility subject to postclosure monitoring or maintenance requirements must have a detailed written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in WAC 173-303-610 (7) through (10), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), and 173-303-680(4). The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in subsection (2)(d) of this section.) The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required by WAC 173-303-610.

(b) During the active life of the facility, the owner or operator must revise the postclosure cost estimate within thirty days after the department has approved the request to modify the postclosure plan, if the change in the postclosure plan increases the cost of postclosure care. The revised postclosure cost estimate must be adjusted for inflation as specified in (c)(i) and (ii) of this subsection.

(c) During the active life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with subsection (6) of this section. For owners or operators using the financial test or corporate guarantee, the postclosure cost estimate must be updated for inflation within thirty days after the close of the firm's fiscal year and before the submission of updated information to the department as specified in subsection (6) of this section. The adjustment may be made by recalculating the postclosure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its Survey of Current Business. The inflation factor is the result of dividing the latest published annual deflator by the deflator for the previous year.

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(i) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.

(ii) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.

(d) During the operating life of the facility, the owner or operator must keep at the facility the latest postclosure cost estimate prepared in accordance with (a) and (b) of this subsection, and, when this estimate has been adjusted in accordance with (c) of this subsection, the latest adjusted postclosure cost estimate.

(6) Financial assurance for postclosure monitoring and maintenance.

(a) An owner or operator of a facility subject to postclosure monitoring or maintenance requirements must establish financial assurance for postclosure care in accordance with the approved postclosure care plan. He must choose from the following options or combination of options:

(i) Postclosure trust fund;

(ii) Surety bond guaranteeing payment into a postclosure trust fund;

(iii) Surety bond guaranteeing performance of postclosure care;

(iv) Postclosure letter of credit;

(v) Postclosure insurance; or

(vi) Financial test and corporate guarantee for postclosure care.

(b) In satisfying the requirements of financial assurance for facility postclosure care in this subsection, the owner or operator ((~~shall~~)) must meet all the requirements set forth in 40 CFR 264.145.

(7) Use of a mechanism for financial assurance of both closure and postclosure care. An owner or operator may satisfy the requirements for financial assurance for both closure and postclosure care for one or more facilities by using a trust fund, surety bond, letter of credit, insurance, financial test, or corporate guarantee that meets the specifications for the mechanism in both 40 CFR 264.143 and 264.145. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for financial assurance of closure and of postclosure care.

(8) Liability requirements.

(a) An owner or operator of a TSD facility or a group of such facilities must demonstrate financial responsibility for bodily injury and property damages to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(a).

(b) An owner or operator of a facility with a regulated unit or units (as defined in WAC 173-303-040) or a disposal miscellaneous unit or units used to manage dangerous waste or a group of such facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must meet the requirements of 40 CFR 264.147(b), 264.177(f), (g), (h), (i), and (j).

(c) Request for variance. If an owner or operator can demonstrate to the satisfaction of the department that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the owner or operator may obtain a variance from the department. The request for a variance must be submitted to the department as part of the application under WAC 173-303-806(4) for a facility that does not have a permit, or pursuant to the procedures for permit modification under WAC 173-303-830 for a facility that has a permit. If granted, the variance will take the form of an adjusted level of required liability coverage, such level to be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. The department may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the department to determine a level of financial responsibility other than that required by (a) or (b) of this subsection. Any request for a variance for a permitted facility will be treated as a request for a permit modification under WAC 173-303-830.

(d) Adjustments by the department. If the department determines that the levels of financial responsibility required by (a) or (b) of this subsection are not consistent with the degree and duration of risk associated with treatment, storage, or disposal at the facility or group of facilities, the department may adjust the level of financial responsibility required under (a) or (b) of this subsection as may be necessary to protect human health and the environment. This adjusted level will be based on the department's assessment of the degree and duration of risk associated with the ownership or operation of the facility or group of facilities. In addition, if the department determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences resulting from the operations of a facility that has no regulated units (as defined in WAC 173-303-040), it may require that the owner or operator of the facility comply with (b) of this subsection. An owner or operator must furnish to the department within a reasonable time, any information which the department requests to determine whether cause exists for such adjustments of level or type of coverage. Any adjustments of level or type of coverage for a facility that has a permit will be treated as a permit modification under WAC 173-303-830.

(e) Period of coverage. An owner or operator must continuously provide liability coverage for a facility as required by this subsection until certifications of closure of the facility, as specified in WAC 173-303-610(6), are received by the department.

(f) The following subsections are incorporated by reference: 40 CFR section 260.147(f), Financial test for liability coverage, (g) Guarantee for liability coverage, (h) Letter of credit for liability coverage, (i) Surety bond for liability coverage, and (j) Trust fund for liability coverage.

(9) Incapacity of owners or operators, guarantor or financial institutions.

(a) An owner or operator must notify the department by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United

States Code, naming the owner or operator as debtor, within ten days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in 40 CFR 264.143(f) and 264.145(f) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (40 CFR 264.151(h)).

(b) An owner or operator who fulfills the requirements of 40 CFR 264.143, 264.145, or 264.147 (a) or (b) by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within sixty days after such an event.

(10) Wording of the instruments. The financial instruments required by this section ((~~shall~~)) will contain the wording specified by 40 CFR 264.151, except that:

(a) The words "regional administrator" and "environmental protection agency" must be replaced with the word "department";

(b) The words "hazardous waste" must be replaced with the words "dangerous waste"; and

(c) Any other words specified by the department ((~~shall~~)) will be changed as necessary to assure financial responsibility of the facility in accordance with the requirements of this section.

Copies of the financial instruments with the appropriate word changes will be available from the department by June 30, 1984.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-630 Use and management of containers. (1) Applicability. The regulations in this section apply to owners and operators of all dangerous waste facilities that store containers of dangerous waste.

(2) Condition of containers. If a container holding dangerous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, the owner or operator must transfer the dangerous waste from the container to a container that is in good condition or manage the waste in some other way that complies with the requirements of chapter 173-303 WAC. In addition, the owner or operator must address leaks and spills in accordance with the applicable provisions of WAC 173-303-145 and 173-303-360.

(3) Identification of containers. The owner or operator must label containers in a manner which adequately identifies the major risk(s) associated with the contents of the containers for employees, emergency response personnel and the public (Note—If there is already a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate). The owner or operator must affix labels upon transfer of dangerous wastes from one container to another. The owner or operator must destroy or otherwise remove labels from the emptied container, unless the container will continue to be used for storing dangerous waste at the facility. The owner or operator must ensure that labels are not obscured, removed, or otherwise unreadable in the course of inspection required under WAC 173-303-320.

(4) Compatibility of waste with containers. The owner or operator must use a container made of or lined with materials which will not react with, and are otherwise compatible with, the dangerous waste to be stored, so that the ability of the container to contain the waste is not impaired.

(5) Management of containers.

(a) A container holding dangerous waste must always be closed, except when it is necessary to add or remove waste.

(b) A container holding dangerous waste must not be opened, handled, or stored in a manner which may rupture the container or cause it to leak.

(c) A minimum thirty-inch separation is required between aisles of containers holding dangerous waste(s). A row of drums must be no more than two drums wide.

(6) Inspections. At least weekly, the owner or operator must inspect areas where containers are stored, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion, deterioration, or other factors. The owner or operator ((~~shall~~)) must keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Containment.

(a) Container storage areas must have a containment system that is capable of collecting and holding spills and leaks. In addition to the necessary leak containment capacity, uncovered storage areas must be capable of holding the additional volume that would result from the precipitation of a maximum twenty-five year storm of twenty-four hours duration. The containment system must:

(i) Have a base underlying the containers which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated rainfall until the collected material is detected and removed. The base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(ii) Be designed for positive drainage control (such as a locked drainage valve) to prevent release of contaminated liquids and so that uncontaminated precipitation can be drained promptly for convenience of operation. Spilled or leaked waste and accumulated precipitation must be removed from the containment system in as timely a manner as is necessary to prevent overflow; and

(iii) Have sufficient capacity to contain ten percent of the volume of all containers or the volume of the largest container, whichever is greater. Only containers holding free liquids, or holding wastes designated as F020, F021, F022, F023, F026, or F027 need to be considered in this determination.

(b) Run-on into the containment system must be prevented, unless the department waives this requirement in

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the permit after determining that the collection system has sufficient excess capacity in addition to that required in (a)(iii) of this subsection to accommodate any run-on which might enter the system.

(c) Storage areas that store containers holding only wastes that do not contain free liquids, do not exhibit either the characteristic of ignitability or reactivity as described in WAC 173-303-090 (5) or (7), and are not designated as F020, F021, F022, F023, F026, or F027, need not have a containment system as described in this subsection: *Provided,* That:

(i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(ii) The containers are elevated or are otherwise protected from contact with accumulated liquids.

(d) ((~~EHW in containers must be protected from the elements by means of a building or other protective covering that otherwise allows~~)) The department may require generators to protect their containers from the elements by means of a building or other protective covering if the department determines that such protection is necessary to prevent a release of waste or waste constituents due to the nature of the waste or design of the container. The building or other protective covering must allow adequate inspection under subsection (6) of this section.

(8) Special requirements for ignitable or reactive waste.

(a) Containers holding reactive waste exhibiting a characteristic specified in WAC 173-303-090 (7)(a)(vi), (vii) or (viii) must be stored in a manner equivalent to the Uniform Fire Code's *"American Table of Distances for Storage of Explosives,"* Table 77-201, 1979 edition or the version adopted by the local fire district.

(b) The owner or operator ((~~shall~~)) must design, operate, and maintain ignitable waste and reactive waste (other than a reactive waste which must meet (a) of this subsection) container storage in a manner equivalent with the Uniform Fire Code. Where no specific standard or requirements are specified in the Uniform Fire Code, or in existing state or local fire codes, applicable sections of the NFPA Pamphlet # 30, *"Flammable and Combustible Liquids Code,"* ((~~shall~~)) must be used. The owner/operator ((~~shall~~)) must also comply with the requirements of WAC 173-303-395 (1)(d).

(9) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same container, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in an unwashed container that previously held an incompatible waste or material.

(c) A storage container holding a dangerous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. Containment systems for incompatible wastes ((~~shall~~)) will be separate.

(10) Closure. At closure, all dangerous waste and dangerous waste residues must be removed from the containment system. Remaining containers, liners, bases, and soil containing or contaminated with dangerous waste or dangerous waste residues must be decontaminated or removed.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-640 Tank systems. (1) Applicability.

(a) The regulations in WAC 173-303-640 apply to owners and operators of facilities that use tank systems to treat or store dangerous waste, except as (b) ((~~and~~)), (c), and (d) of this subsection provides otherwise.

(b) Tank systems that are used to store or treat dangerous waste which contain no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in subsection (4) of this section. To demonstrate the absence or presence of free liquids in the stored/treated waste, the test method described in WAC 173-303-110 (3)(c)(i) must be used.

(c) Tank systems, including sumps, as defined in WAC 173-303-040, that serve as part of a secondary containment system to collect or contain releases of dangerous wastes are exempted from the requirements in subsection (4)(a) of this section.

(d) Tanks, sumps, and other such collection devices or systems used in conjunction with drip pads, as defined in WAC 173-303-040 and regulated under WAC 173-303-675, must meet the requirements of this section.

(2) Assessment of existing tank system's integrity.

(a) For each existing tank system, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in (b) of this subsection, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), that attests to the tank system's integrity by January 12, 1988, for underground tanks that do not meet the requirements of subsection (4) of this section and that cannot be entered for inspection, or by January 12, 1990, for all other tank systems.

(b) Tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, must conduct this assessment within twelve months after the date that the waste becomes a dangerous waste.

(c) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(i) Design standard(s), if available, according to which the tank system was constructed;

(ii) Dangerous characteristics of the waste(s) that have been and will be handled;

(iii) Existing corrosion protection measures;

(iv) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(v) Results of a leak test, internal inspection, or other tank system integrity examination such that:

(A) For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

(B) For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, registered

professional engineer, in accordance with WAC 173-303-810 (13)(a), that addresses cracks, leaks, corrosion, and erosion.

Note: The practices described in the American Petroleum Institute (API) Publication, Guide for Inspection of Refinery Equipment, Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines in conducting other than a leak test.

(d) If, as a result of the assessment conducted in accordance with (a) of this subsection, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of subsection (7) of this section.

(e) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture, or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(3) Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain (and for facilities that are pursuing or have obtained a final status permit, submit to the department, at time of submittal of Part B information) a written assessment, reviewed and certified by an independent, qualified registered professional engineer, in accordance with WAC 173-303-810 (13)(a), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of dangerous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment (which will be used by the department to review and approve or disapprove the acceptability of the tank system design at facilities which are pursuing or have obtained a final status permit) must include, at a minimum, the following information:

(i) Design standard(s) according to which tank system(s) are constructed;

(ii) Dangerous characteristics of the waste(s) to be handled;

(iii) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

(A) Factors affecting the potential for corrosion, including but not limited to:

(I) Soil moisture content;

(II) Soil pH;

(III) Soil sulfides level;

(IV) Soil resistivity;

(V) Structure to soil potential;

(VI) Influence of nearby underground metal structures (e.g., piping);

(VII) Existence of stray electric current;

(VIII) Existing corrosion-protection measures (e.g., coating, cathodic protection); and

(B) The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(I) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

(II) Corrosion-resistant coating (such as epoxy, fiberglass, etc.,) with cathodic protection (e.g., impressed current or sacrificial anodes); and

(III) Electrical isolation devices such as insulating joints, flanges, etc.

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in providing corrosion protection for tank systems.

(iv) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(v) Design considerations to ensure that:

(A) Tank foundations will maintain the load of a full tank;

(B) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is either placed in a saturated zone, or is located less than five hundred feet from a fault which has had displacement in Holocene times; and

(C) Tank systems will withstand the effects of frost heave.

(b) The owner or operator must develop a schedule for conducting integrity assessments over the life of the tank to ensure that the tank retains its structural integrity and will not collapse, rupture or fail. The schedule must be based on the results of past integrity assessments, age of the tank system, materials of construction, characteristics of the waste, and any other relevant factors.

(c) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

(i) Weld breaks;

(ii) Punctures;

(iii) Scrapes of protective coatings;

(iv) Cracks;

(v) Corrosion;

(vi) Other structural damage or inadequate construction/installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(d) New tank systems or components that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

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(e) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(f) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

Note: The piping system installation procedures described in American Petroleum Institute (API) Publication 1615 (November 1979), "Installation of Underground Petroleum Storage Systems," or ANSI Standard B31.3, "Petroleum Refinery Piping," and ANSI Standard B31.4 "Liquid Petroleum Transportation Piping System," may be used, where applicable, as guidelines for proper installation of piping systems.

(g) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under (a)(iii) of this subsection, or other corrosion protection if the department believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(h) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of (b) through (g) of this subsection, that attest that the tank system was properly designed and installed and that repairs, pursuant to (c) and (e) of this subsection, were performed. These written statements must also include the certification statement as required in WAC 173-303-810 (13)(a).

(4) Containment and detection of releases.

(a) In order to prevent the release of dangerous waste or dangerous constituents to the environment, secondary containment that meets the requirements of this subsection must be provided (except as provided in (f) and (g) of this subsection):

(i) For all new tank systems or components, prior to their being put into service;

(ii) For all existing tank systems used to store or treat Dangerous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1989;

(iii) For those existing tank systems of known and documented age, within two years after January 12, 1989, or when the tank system has reached fifteen years of age, whichever comes later;

(iv) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1989; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches fifteen years of age, or within two years of January 12, 1989, whichever comes later; and

(v) For tank systems that store or treat materials that become dangerous wastes subsequent to January 12, 1989, within the time intervals required in (a)(i) through (iv) of this subsection, except that the date that a material becomes a dangerous waste must be used in place of January 12, 1989.

(b) Secondary containment systems must be:

(i) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and

(ii) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(c) To meet the requirements of (b) of this subsection, secondary containment systems must be at a minimum:

(i) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operations (including stresses from nearby vehicular traffic);

(ii) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(iii) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of dangerous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the owner or operator can demonstrate to the department that existing detection technologies or site conditions will not allow detection of a release within twenty-four hours; and

(iv) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the department that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

Note: If the collected material is a dangerous waste under WAC 173-303-070, it is subject to management as a dangerous waste in accordance with all applicable requirements of WAC 173-303-170 through 173-303-400 and WAC 173-303-600 through 173-303-695. If the collected material is discharged through a point source to waters of the United States, it is subject to the requirements of sections 301, 304, and 402 of the Clean Water Act, as amended. If discharged to a publicly owned treatment works (POTW), it is subject to the requirements of section 307 of the Clean Water Act, as amended. If the collected material is released to the environment, it may be subject to the reporting requirements of 40 CFR Part 302.

(d) Secondary containment for tanks must include one or more of the following devices:

(i) A liner (external to the tank);

(ii) A vault;

(iii) A double-walled tank; or

(iv) An equivalent device as approved by the department.

(e) In addition to the requirements of (b), (c), and (d) of this subsection, secondary containment systems must satisfy the following requirements:

(i) External liner systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event.

(C) Free of cracks or gaps; and

(D) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(ii) Vault systems must be:

(A) Designed or operated to contain one hundred percent of the capacity of the largest tank within its boundary;

(B) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five-year, twenty-four-hour rainfall event;

(C) Constructed with chemical-resistant water stops in place at all joints (if any);

(D) Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

(E) Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

(I) Meets the definition of ignitable waste under WAC 173-303-090(5); or

(II) Meets the definition of reactive waste under WAC 173-303-090(7), and may form an ignitable or explosive vapor.

(F) Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(iii) Double-walled tanks must be:

(A) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

(B) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

(C) Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four hours, or at the earliest practicable time, if the owner or operator can demonstrate to the department, and the department concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four hours.

Note: The provisions outlined in the Steel Tank Institute's (STI) "Standard for Dual Wall Underground Steel Storage Tanks" may be used as guidelines for aspects of the design of underground steel double-walled tanks.

(f) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of (b) and (c) of this subsection except for:

(i) Aboveground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(ii) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(iii) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(iv) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

(g) The owner or operator may obtain a variance from the requirements of this subsection if the department finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any dangerous waste or dangerous constituents into the ground water, or surface water at least as effectively as secondary containment during the active life of the tank system or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with (g)(ii) of this subsection, be exempted from the secondary containment requirements of this section.

(i) In deciding whether to grant a variance based on a demonstration of equivalent protection of ground water and surface water, the department will consider:

(A) The nature and quantity of the wastes;

(B) The proposed alternate design and operation;

(C) The hydrogeologic setting of the facility, including the thickness of soils present between the tank system and ground water; and

(D) All other factors that would influence the quality and mobility of the dangerous constituents and the potential for them to migrate to ground water or surface water.

(ii) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the department will consider:

(A) The potential adverse effects on ground water, surface water, and land quality taking into account:

(I) The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

(II) The hydrogeological characteristics of the facility and surrounding land;

(III) The potential for health risks caused by human exposure to waste constituents;

(IV) The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(V) The persistence and permanence of the potential adverse effects.

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(B) The potential adverse effects of a release on ground-water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground-water flow;

(II) The proximity and withdrawal rates of ground-water users;

(III) The current and future uses of ground water in the area; and

(IV) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground-water quality.

(C) The potential adverse effects of a release on surface water quality, taking into account:

(I) The quantity and quality of ground water and the direction of ground-water flow;

(II) The patterns of rainfall in the region;

(III) The proximity of the tank system to surface waters;

(IV) The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

(V) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface-water quality.

(D) The potential adverse effects of a release on the land surrounding the tank system, taking into account:

(I) The patterns of rainfall in the region; and

(II) The current and future uses of the surrounding land.

(iii) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7) of this section, except subsection (7)(d) of this section; and

(B) Decontaminate or remove contaminated soil to the extent necessary to:

(I) Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

(II) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water.

(C) If contaminated soil cannot be removed or decontaminated in accordance with (g)(iii)(B) of this subsection, comply with the requirements of subsection (8) of this section.

(iv) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of (g)(i) of this subsection, at which a release of dangerous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

(A) Comply with the requirements of subsection (7)(a), (b), (c), and (d) of this section; and

(B) Prevent the migration of dangerous waste or dangerous constituents to ground water or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if ground water has been contaminated, the owner or operator must comply with the requirements of subsection (8)(b) of this section; and

(C) If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of (a) through (f) of this subsection or reapply for a variance from secondary containment and meet the requirements for new tank systems in subsection (3) of this section if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and ground water or surface water has not been contaminated.

(h) The following procedures must be followed in order to request a variance from secondary containment:

(i) The department must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in (g) of this subsection according to the following schedule:

(A) For existing tank systems, at least twenty-four months prior to the date that secondary containment must be provided in accordance with (a) of this subsection.

(B) For new tank systems, at least thirty days prior to entering into a contract for installation.

(ii) As part of the notification, the owner or operator must also submit to the department a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in (g)(i) or (ii) of this subsection;

(iii) The demonstration for a variance must be completed within one hundred eighty days after notifying the department of an intent to conduct the demonstration; and

(iv) If a variance is granted under this subsection, the department will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(i) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(A) For nonenterable underground tanks, a leak test that meets the requirements of subsection (2)(c)(v) of this section or other tank integrity method, as approved or required by the department, must be conducted at least annually.

(B) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in (i)(A) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified registered professional engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(C) For ancillary equipment, a leak test or other integrity assessment as approved by the department must be conducted at least annually.

Note: The practices described in the American Petroleum Institute (API) Publication Guide for Inspection of Refinery Equipment,

Chapter XIII, "Atmospheric and Low-Pressure Storage Tanks," 4th edition, 1981, may be used, where applicable, as guidelines for assessing the overall condition of the tank system.

(D) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with (h)(iv)(A) through (C) of this subsection.

(E) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in (h)(iv)(A) through (C) of this subsection, the owner or operator must comply with the requirements of subsection (7) of this section.

(5) General operating requirements.

(a) Dangerous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include at a minimum:

(i) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(ii) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(iii) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) The owner or operator must comply with the requirements of subsection (7) of this section if a leak or spill occurs in the tank system.

(d) All tank systems holding dangerous waste ((~~shall~~)) must be marked with labels or signs to identify the waste contained in the tank. The label or sign ((~~shall~~)) must be legible at a distance of at least fifty feet, and ((~~shall~~)) must bear a legend which identifies the waste in a manner which adequately warns employees, emergency response personnel, and the public of the major risk(s) associated with the waste being stored or treated in the tank system(s). (Note—If there already is a system in use that performs this function in accordance with local, state or federal regulations, then such system will be adequate.)

(e) All tank systems holding ((~~EHW~~)) dangerous wastes which ((~~is~~)) are acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air.

(6) Inspections.

(a) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(b) The owner or operator must inspect at least once each operating day:

(i) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(ii) Data gathered from monitoring any leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(iii) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of dangerous waste (e.g., wet spots, dead vegetation).

Note: WAC 173-303-320 requires the owner or operator to remedy any deterioration or malfunction he finds. Subsection (7) of this section requires the owner or operator to notify the department within twenty-four hours of confirming a leak. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of a release.

(c) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(i) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(ii) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85)—Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

(d) The owner or operator must document in the operating record of the facility an inspection of those items in (a) through (c) of this subsection. The owner or operator ((~~shall~~)) must keep an inspection log including at least the date and time of the inspection, the printed name and the handwritten signature of the inspector, a notation of the observations made and the date and nature of any repairs or remedial actions taken. The log must be kept at the facility for at least five years from the date of inspection.

(7) Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(a) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of dangerous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Removal of waste from tank system or secondary containment system.

(i) If the release was from the tank system, the owner/operator must, within twenty-four hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of dangerous waste to the environment and to allow inspection and repair of the tank system to be performed.

(ii) If the material released was to a secondary containment system, all released materials must be removed within twenty-four hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(c) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and, based upon that inspection:

(i) Prevent further migration of the leak or spill to soils or surface water; and

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(ii) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Notifications, reports.

(i) Any release to the environment, except as provided in (d)(ii) of this subsection, must be reported to the department within twenty-four hours of its detection. Any release above the "reportable quantity" must also be reported to the National Response Center pursuant to 40 CFR Part 302.

(ii) A leak or spill of dangerous waste is exempted from the requirements of (d) of this subsection if it is:

(A) Less than or equal to a quantity of one pound, or the "Reportable Quantity" (RQ) established in 40 CFR Part 302, whichever is less; and

(B) Immediately contained and cleaned-up.

(iii) Within thirty days of detection of a release to the environment, a report containing the following information must be submitted to the department:

(A) Likely route of migration of the release;

(B) Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

(C) Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty days, these data must be submitted to the department as soon as they become available;

(D) Proximity to downgradient drinking water, surface water, and populated areas; and

(E) Description of response actions taken or planned.

(e) Provision of secondary containment, repair, or closure.

(i) Unless the owner/operator satisfies the requirements of (e)(ii) through (iv) of this subsection, the tank system must be closed in accordance with subsection (8) of this section.

(ii) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(iii) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(iv) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of subsection (4) of this section before it can be returned to service, unless the source of the leak is an aboveground portion of a tank system that can be inspected visually. If the source is an aboveground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of (f) of this subsection are satisfied. If a component is replaced to comply with the requirements of this subitem, that component must satisfy the requirements for new tank systems or components in subsections (3) and (4) of this section. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an inground or onground tank), the entire component must be provided with secondary containment in accordance with subsection (4) of this section prior to being returned to use.

(f) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with (e) of this subsection, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified, registered, professional engineer in accordance with WAC 173-303-810 (13)(a) that the repaired system is capable of handling dangerous wastes without release for the intended life of the system. This certification must be submitted to the department within seven days after returning the tank system to use.

Note: See WAC 173-303-320 for the requirements necessary to remedy a failure. Also, 40 CFR Part 302 may require the owner or operator to notify the National Response Center of certain releases.

(8) Closure and post-closure care.

(a) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as dangerous waste, unless WAC 173-303-070 (2)(a) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in WAC 173-303-610 and 173-303-620.

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in (a) of this subsection, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (see WAC 173-303-665(6)). In addition, for the purposes of closure, post-closure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of subsection (4)(b) through (f) of this section and is not exempt from the secondary containment requirements in accordance with subsection (4)(g) of this section, then:

(i) The closure plan for the tank system must include both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection.

(ii) A contingent post-closure plan for complying with (b) of this subsection must be prepared and submitted as part of the permit application.

(iii) The cost estimates calculated for closure and post-closure care must reflect the costs of complying with the contingent closure plan and the contingent post-closure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under (a) of this subsection.

(iv) Financial assurance must be based on the cost estimates in (c)(iii) of this subsection.

(v) For the purposes of the contingent closure and post-closure plans, such a tank system is considered to be a

landfill, and the contingent plans must meet all of the closure, post-closure, and financial responsibility requirements for landfills under this chapter (WAC 173-303-610 and 173-303-620).

(9) Special requirements for ignitable or reactive wastes.

(a) Ignitable or reactive waste must not be placed in tank systems unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in the tank system so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090, and 173-303-395 (1)(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or

(iii) The tank system is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the NFPA-30 *Flammable and Combustible Liquids Code* - 1981, or as required by state and local fire codes when such codes are more stringent. The owner or operator ((~~shall~~)) must also comply with the requirements of WAC 173-303-395 (1)(d).

(10) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system, unless WAC 173-303-395 (1)(b) is complied with.

(b) Dangerous waste must not be placed in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless WAC 173-303-395 (1)(b) is complied with.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-645 Releases from regulated units. (1) Applicability.

(a)(i) Except as provided in (b) of this subsection, the regulations in this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste. The owner or operator must satisfy the requirements identified in (a)(ii) of this subsection for all wastes (or constituents thereof) contained in solid waste management units at the facility, regardless of the time at which waste was placed in such units.

(ii) All solid waste management units must comply with the requirements in WAC 173-303-646(2). Regulated units (as defined in WAC 173-303-040) must comply with the requirements of subsections (2) through (12) of this section, in lieu of WAC 173-303-646(2), for purposes of detecting, characterizing, and responding to releases to the uppermost aquifer. The corrective action financial responsibility requirements of WAC 173-303-646(2) apply to corrective action regulated units.

(b) The owner or operator's regulated unit or units are not subject to regulation for releases into the uppermost aquifer under this section if:

(i) The owner or operator is exempted under WAC 173-303-600; or

(ii) He operates a unit which the department finds:

(A) Is an engineered structure;

(B) Does not receive or contain liquid waste or waste containing free liquids;

(C) Is designed and operated to exclude liquid, precipitation, and other run-on and run-off;

(D) Has both inner and outer layers of containment enclosing the waste;

(E) Has a leak detection system built into each containment layer;

(F) The owner or operator will provide continuing operation and maintenance of these leak detection systems during the active life of the unit and the closure and post-closure care periods; and

(G) To a reasonable degree of certainty, will not allow dangerous constituents to migrate beyond the outer containment layer prior to the end of the post-closure care period.

(iii) The department finds, pursuant to WAC 173-303-655 (8)(d), that the treatment zone of a land treatment unit does not contain levels of dangerous constituents that are above background levels of those constituents by an amount that is statistically significant, and if an unsaturated zone monitoring program meeting the requirements of WAC 173-303-655(6) has not shown a statistically significant increase in dangerous constituents below the treatment zone during the operating life of the unit. An exemption under this subsection can only relieve an owner or operator of responsibility to meet the requirements of this section during the post-closure care period; or

(iv) The department finds that there is no potential for migration of liquid from a regulated unit to the uppermost aquifer during the active life of the regulated unit (including the closure period) and the postclosure care period. This demonstration must be certified by a qualified geologist or geotechnical engineer. In order to provide an adequate margin of safety in the prediction of potential migration of liquid, the owner or operator must base any predictions made under this subsection on assumptions that maximize the rate of liquid migration.

(c) The regulations under this section apply during the active life of the regulated unit (including the closure period). After closure of the regulated unit, the regulations in this section:

(i) Do not apply if all waste, waste residues, contaminated containment system components, and contaminated subsoils are removed or decontaminated at closure in accordance with the removal or decontamination limits specified in WAC 173-303-610 (2)(b);

(ii) Apply during the postclosure care period if the owner or operator is conducting a detection monitoring program under subsection (9) of this section; and

(iii) Apply during the compliance period under subsection (7) of this section, if the owner or operator is conducting a compliance monitoring program under subsection (10) of this section, or a corrective action program under subsection (11) of this section.

(d) Regulations in this section may apply to miscellaneous units when necessary to comply with WAC 173-303-680 (2) through (4).

(2) Required programs.

(a) Owners and operators subject to this section must conduct a monitoring and response program as follows:

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(i) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit are detected at the compliance point under subsection (6) of this section, the owner or operator must institute a compliance monitoring program under subsection (10) of this section. Detected is defined as statistically significant evidence of contamination as described in subsection (9)(f) of this section;

(ii) Whenever the ground water protection standard under subsection (3) of this section, is exceeded, the owner or operator must institute a corrective action program under subsection (11) of this section. Exceeded is defined as statistically significant evidence of increased contamination as described in subsection (10)(h) of this section. Exceeded is defined as statistically significant evidence of contamination as described in WAC 173-303-645 (10)(d);

(iii) Whenever dangerous constituents under subsection (4) of this section, from a regulated unit exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section and the downgradient facility property boundary, the owner or operator must institute a corrective action program under subsection (11) of this section; and

(iv) In all other cases, the owner or operator must institute a detection monitoring program under subsection (9) of this section.

(b) The department will specify in the facility permit the specific elements of the monitoring and response program. The department may include one or more of the programs identified in (a) of this subsection, in the facility permit as may be necessary to protect human health and the environment and will specify the circumstances under which each of the programs will be required. In deciding whether to require the owner or operator to be prepared to institute a particular program, the department will consider the potential adverse effects on human health and the environment that might occur before final administrative action on a permit modification application to incorporate such a program could be taken.

(3) Ground water protection standard. The owner or operator must comply with conditions specified in the facility permit that are designed to ensure that dangerous constituents under subsection (4) of this section, detected in the ground water from a regulated unit do not exceed the concentration limits under subsection (5) of this section, in the uppermost aquifer underlying the waste management area beyond the point of compliance under subsection (6) of this section, during the compliance period under subsection (7) of this section. To the extent practical, the department will establish this ground water protection standard in the facility permit at the time the permit is issued. If the department determines that an established standard is not protective enough, or if the department decides that it is not practical to establish standards at the time of permit issuance, the department will establish the groundwater protection standard in the facility permit when dangerous constituents have been detected in the groundwater from a regulated unit.

(4) Dangerous constituents.

(a) The department will specify in the facility permit the dangerous constituents to which the ground water protection standard of subsection (3) of this section, applies. Dangerous constituents are constituents identified in 40 CFR Part 264 Appendix IX, which is adopted by reference (this list is available from the department ((~~upon request~~))), and any other constituents not listed there which have caused a waste to be regulated under this chapter, that may be or have been detected in ground water in the uppermost aquifer underlying a regulated unit and that are reasonably expected to be in or derived from waste contained in a regulated unit, unless the department has excluded them under (b) of this subsection.

The department may also specify in the permit indicator parameters (e.g., specific conductance, pH, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents or reaction products as identified in the detection monitoring program under subsection (9)(a) of this section, that provide a reliable indication of the presence of dangerous constituents in the ground water.

(b) The department will exclude a 40 CFR Part 264 Appendix IX, or other identified constituent from the list of dangerous constituents specified in the facility permit if it finds that the constituent is not capable of posing a substantial present or potential hazard to human health or the environment. In deciding whether to grant an exemption, the department will consider the following:

(i) Potential adverse effects on ground water quality, considering:

(A) The physical and chemical characteristics of the waste in the regulated unit, including its potential for migration;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity of ground water and the direction of ground water flow;

(D) The proximity and withdrawal rates of ground water users;

(E) The current and future uses of ground water in the area;

(F) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water quality;

(G) The potential for health risks caused by human exposure to waste constituents;

(H) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(I) The persistence and permanence of the potential adverse effects;

(ii) Potential adverse effects on hydraulically-connected surface water quality, considering:

(A) The volume and physical and chemical characteristics of the waste in the regulated unit;

(B) The hydrogeological characteristics of the facility and surrounding land;

(C) The quantity and quality of ground water, and the direction of ground water flow;

(D) The patterns of rainfall in the region;

(E) The proximity of the regulated unit to surface waters;

(F) The current and future uses of surface waters in the area and any water quality standards established for those surface waters;

(G) The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality;

(H) The potential for health risks caused by human exposure to waste constituents;

(I) The potential damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

(J) The persistence and permanence of the potential adverse effects; and

(iii) Any identification of underground sources of drinking water and exempted aquifers made pursuant to chapter 90.48 RCW, chapter 270, Laws of 1983, and other applicable state laws and regulations.

(5) Concentration limits.

(a) The department will specify in the facility permit concentration limits in the ground water for dangerous constituents established under subsection (4) of this section. The concentration of a dangerous constituent:

(i) Must not exceed the background level of that constituent in the ground water at the time that limit is specified in the permit; or

(ii) For any of the constituents listed in Table 1 of this subsection, must not exceed the respective value given in that table if the background level of the constituent is below the value given in Table 1; or

(iii) Must not exceed an alternate limit established by the department under (b) of this subsection.

Table 1.
Maximum Concentration of Constituents for Ground Water Protection

Constituent	Maximum Concentration[1]
Arsenic	0.05
Barium	1.0
Cadmium	0.01
Chromium	0.05
Lead	0.05
Mercury	0.002
Selenium	0.01
Silver	0.05
Endrin	0.0002
Lindane	0.004
Methoxychlor	0.1
Toxaphene	0.005
2,4-D	0.1m
2,4,5-TP Silvex	0.01

[1] Milligrams per liter.

(b) The department will establish an alternate concentration limit for a dangerous constituent if it finds that the constituent will not pose a substantial present or potential hazard to human health or the environment as long as the alternate concentration limit is not exceeded. In establishing alternate concentration limits, the department will consider the same factors listed in subsection (4)(b)(i) through (iii) of this section.

(6) Point of compliance.

(a) The department will specify in the facility permit the point of compliance at which the ground water protection standard of subsection (3) of this section, applies and at which monitoring must be conducted. The point of compliance is a vertical surface located at the hydraulically downgradient limit of the waste management area that extends down into the uppermost aquifer underlying the regulated units. Alternatively, the point of compliance may be any closer points identified by the department at the time the permit is issued, considering the risks of the facility, the wastes and constituents managed there, the potential for waste constituents to have already migrated past the alternate compliance point, and the potential threats to ground and surface waters.

(b) The waste management area is the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit. The waste management area includes horizontal space taken up by any liner, dike, or other barrier designed to contain waste in a regulated unit. If the facility contains more than one regulated unit, the waste management area is described by an imaginary line circumscribing the several regulated units.

(7) Compliance period.

(a) The department will specify in the facility permit the compliance period during which the ground water protection standard of subsection (3) of this section applies. The compliance period is the number of years equal to the active life of the waste management area (including any waste management activity prior to permitting, and the closure period).

(b) The compliance period begins when the owner or operator initiates a compliance monitoring program meeting the requirements of subsection (10) of this section.

(c) If the owner or operator is engaged in a corrective action program at the end of the compliance period specified in (a) of this subsection, the compliance period is extended until the owner or operator can demonstrate that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(8) General ground water monitoring requirements.

The owner or operator must comply with the requirements of this subsection for any ground water monitoring program developed to satisfy subsections (9), (10), or (11) of this section.

(a) The ground water monitoring system must consist of a sufficient number of wells, installed at appropriate locations and depths to yield ground water samples from the uppermost aquifer that:

(i) Represent the quality of background water that has not been affected by leakage from a regulated unit;

(A) A determination of background quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

(I) Hydrogeologic conditions do not allow the owner or operator to determine what wells are hydraulically upgradient; and

(II) Sampling at other wells will provide an indication of background ground water quality that is representative or more representative than that provided by the upgradient wells; and

(ii) Represent the quality of ground water passing the point of compliance.

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(iii) Allow for the detection of contamination when dangerous waste or dangerous constituents have migrated from the waste management area to the uppermost aquifer.

(b) If a facility contains more than one regulated unit, separate ground water monitoring systems are not required for each regulated unit, provided that provisions for sampling the ground water in the uppermost aquifer will enable detection and measurement at the compliance point of dangerous constituents from the regulated units that have entered the ground water in the uppermost aquifer.

(c) All monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must allow collection of representative ground water samples. Wells must be constructed in such a manner as to prevent contamination of the samples, the sampled strata, and between aquifers and water bearing strata. Wells must meet the requirements set forth in Parts 1 and 3 of chapter 173-160 WAC, "Minimum standards for construction and maintenance of wells."

(d) The ground water monitoring program must include at a minimum, procedures and techniques for:

(i) Decontamination of drilling and sampling equipment;

(ii) Sample collection;

(iii) Sample preservation and shipment;

(iv) Analytical procedures and quality assurance; and

(v) Chain of custody control.

(e) The ground water monitoring program must include consistent sampling and analytical methods that ensure reliable ground water sampling, accurately measure dangerous constituents and indicator parameters in ground water samples, and provide a reliable indication of groundwater quality below the waste management area.

(f) The ground water monitoring program must include a determination of the ground water surface elevation each time ground water is sampled.

(g) In detection monitoring or where appropriate in compliance monitoring, data on each dangerous constituent specified in the permit will be collected from background wells and wells at the compliance point(s). The number and kinds of samples collected to establish background ((~~shall~~)) must be appropriate for the form of statistical test employed, following generally accepted statistical principles. The sample size ((~~shall~~)) will be as large as necessary to ensure with reasonable confidence that a contaminant release to ground water from a facility will be detected. The owner or operator will determine an appropriate sampling procedure and interval for each hazardous constituent listed in the facility permit which ((~~shall~~)) will be specified in the unit permit upon approval by the department. This sampling procedure ((~~shall~~)) will be:

(i) A sequence of at least four samples, taken at an interval that assures, to the greatest extent technically feasible, that an independent sample is obtained, by reference to the uppermost aquifer's effective porosity, hydraulic conductivity and hydraulic gradient, and the fate and transport characteristics of the potential contaminants; or

(ii) An alternate sampling procedure proposed by the owner or operator and approved by the department.

(h) The owner or operator will specify one of the following statistical methods to be used in evaluating ground water monitoring data for each hazardous constituent which, upon approval by the department, will be specified in the unit permit. The statistical test chosen ((~~shall~~)) will be conducted separately for each dangerous constituent in each well. Where practical quantification limits (pql's) are used in any of the following statistical procedures to comply with (i)(v) of this subsection, the pql must be proposed by the owner or operator and approved by the department. Use of any of the following statistical methods must be protective of human health and the environment and must comply with the performance standards outlined in (i) of this subsection.

(i) A parametric analysis of variance (ANOVA) followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's mean and the background mean levels for each constituent.

(ii) An analysis of variance (ANOVA) based on ranks followed by multiple comparisons procedures to identify statistically significant evidence of contamination. The method must include estimation and testing of the contrasts between each compliance well's median and the background median levels for each constituent.

(iii) A tolerance or prediction interval procedure in which an interval for each constituent is established from the distribution of the background data, and the level of each constituent in each compliance well is compared to the upper tolerance or prediction limit.

(iv) A control chart approach that gives control limits for each constituent.

(v) Another statistical test method submitted by the owner or operator and approved by the department.

(i) Any statistical method chosen under (h) of this subsection for specification in the unit permit ((~~shall~~)) must comply with the following performance standards, as appropriate:

(i) The statistical method used to evaluate ground water monitoring data ((~~shall~~)) will be appropriate for the distribution of chemical parameters or dangerous constituents. If the distribution of the chemical parameters or dangerous constituents is shown by the owner or operator to be inappropriate for a normal theory test, then the data should be transformed or a distribution-free theory test should be used. If the distributions for the constituents differ, more than one statistical method may be needed.

(ii) If an individual well comparison procedure is used to compare an individual compliance well constituent concentration with background constituent concentrations or a ground water protection standard, the test ((~~shall~~)) will be done at a Type I error level no less than 0.01 for each testing period. If a multiple comparisons procedure is used, the Type I experiment wise error rate for each testing period ((~~shall~~)) will be no less than 0.05; however, the Type I error of no less than 0.01 for individual well comparisons must be maintained. This performance standard does not apply to tolerance intervals, prediction intervals, or control charts.

(iii) If a control chart approach is used to evaluate ground water monitoring data, the specific type of control chart and its associated parameter values ((~~shall~~)) will be proposed by the owner or operator and approved by the department if it ((~~is~~)) finds it to be protective of human health and the environment.

(iv) If a tolerance interval or a prediction interval is used to evaluate ground water monitoring data, the levels of

confidence and, for tolerance intervals, the percentage of the population that the interval must contain, ((~~shall~~)) will be proposed by the owner or operator and approved by the department if it finds these parameters to be protective of human health and the environment. These parameters will be determined after considering the number of samples in the background data base, the data distribution, and the range of the concentration values for each constituent of concern.

(v) The statistical method ((~~shall~~)) will account for data below the limit of detection with one or more statistical procedures that are protective of human health and the environment. Any practical quantification limit (pql) approved by the department under (h) of this subsection that is used in the statistical method ((~~shall~~)) will be the lowest concentration level that can be reliably achieved within specified limits of precision and accuracy during routine laboratory operating conditions that are available to the facility.

(vi) If necessary, the statistical method ((~~shall~~)) will include procedures to control or correct for seasonal and spatial variability as well as temporal correlation in the data.

(j) Ground water monitoring data collected in accordance with (g) of this subsection including actual levels of constituents must be maintained in the facility operating record. The department will specify in the permit when the data must be submitted for review.

(9) Detection monitoring program. An owner or operator required to establish a detection monitoring program under this subsection must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor for indicator parameters (e.g., pH, specific conductance, total organic carbon (TOC), total organic halogen (TOX), or heavy metals), waste constituents, or reaction products that provide a reliable indication of the presence of dangerous constituents in ground water. The department will specify the parameters or constituents to be monitored in the facility permit, after considering the following factors:

(i) The types, quantities, and concentrations of constituents in wastes managed at the regulated unit;

(ii) The mobility, stability, and persistence of waste constituents or their reaction products in the unsaturated zone beneath the waste management area;

(iii) The detectability of indicator parameters, waste constituents, and reaction products in ground water; and

(iv) The concentrations or values and coefficients of variation of proposed monitoring parameters or constituents in the ground water background.

(b) The owner or operator must install a ground water monitoring system at the compliance point, as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The owner or operator must conduct a ground water monitoring program for each chemical parameter and dangerous constituent specified in the permit pursuant to (a) of this subsection in accordance with subsection (8)(g) of this section. The owner or operator must maintain a record of ground water analytical data as measured and in a form necessary for the determination of statistical significance under subsection (8)(h) of this section.

(d) The department will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or dangerous constituent specified in the permit under (a) of this subsection in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during detection monitoring.

(e) The owner or operator must determine the ground water flow rate and direction in the uppermost aquifer at least annually.

(f) The owner or operator must determine whether there is statistically significant evidence of contamination for any chemical parameter of dangerous constituent specified in the permit pursuant to (a) of this subsection at a frequency specified under (d) of this subsection.

(i) In determining whether statistically significant evidence of contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. These method(s) must compare data collected at the compliance point(s) to the background ground water quality data.

(ii) The owner or operator must determine whether there is statistically significant evidence of contamination at each monitoring well as the compliance point within a reasonable period of time after completion of sampling. The department will specify in the facility permit what period of time is reasonable after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(g) If the owner or operator determines pursuant to (f) of this subsection that there is statistically significant evidence of contamination for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what chemical parameters or dangerous constituents have shown statistically significant evidence of contamination:

(ii) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of 40 CFR Part 264 (which is adopted by reference) are present, and if so, in what concentration.

(iii) For any Appendix IX compounds found in the analysis pursuant to (g)(ii) of this subsection, the owner or operator may resample within one month and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds found pursuant to (g)(ii) of this subsection, the dangerous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

(iv) Within ninety days, submit to the department an application for a permit modification to establish a compliance monitoring program meeting the requirements of subsection (10) of this section. The application must include the following information:

(A) An identification of the concentration or any Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

(B) Any proposed changes to the ground water monitoring system at the facility necessary to meet the requirements of subsection (10) of this section;

(C) Any proposed additions or changes to the monitoring frequency, sampling and analysis procedures or methods, or statistical methods used at the facility necessary to meet the requirements of subsection (10) of this section;

(D) For each dangerous constituent detected at the compliance point, a proposed concentration limit under subsection (5)(a)(i) or (ii) of this section, or a notice of intent to seek an alternate concentration limit under subsection (5)(b) of this section; and

(v) Within one hundred eighty days, submit to the department:

(A) All data necessary to justify an alternate concentration limit sought under subsection (5)(b) of this section; and

(B) An engineering feasibility plan for a corrective action program necessary to meet the requirement of subsection (11) of this section unless:

(I) All dangerous constituents identified under (g)(ii) of this subsection are listed in Table I of subsection (5) of this section and their concentrations do not exceed the respective values given in that Table; or

(II) The owner or operator has sought an alternate concentration limit under subsection (5)(b) of this section for every dangerous constituent identified under (g)(ii) of this subsection.

(vi) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant difference for chemical parameters or dangerous constituents specified pursuant to (a) of this subsection at any monitoring well at the compliance point, he or she may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. The owner operator may make a demonstration under this subsection in addition to, or in lieu of, submitting a permit modification application under (g)(iv) of this subsection; however, the owner or operator is not relieved of the requirement to submit a permit modification application within the time specified in (g)(iv) of this subsection unless the demonstration made under this subsection successfully shows that a source other than a regulated unit caused the increase, or that the increase resulted from error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(A) Notify the department in writing within seven days of determining statistically significant evidence of contamination at the compliance point that he intends to make a demonstration under this subsection;

(B) Within ninety days, submit a report to the department which demonstrates that a source other than a regulated unit caused the contamination or that the contamination resulted from error in sampling, analysis, or evaluation;

(C) Within ninety days, submit to the department an application for a permit modification to make any appropriate changes to the detection monitoring program facility; and

(D) Continue to monitor in accordance with the detection monitoring program established under this section.

(h) If the owner or operator determines that the detection monitoring program no longer satisfies the requirements of this section, he or she must, within ninety days, submit an application for a permit modification to make any appropriate changes to the program.

(10) Compliance monitoring program. An owner or operator required to establish a compliance monitoring program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the ground water to determine whether regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must install a ground water monitoring system at the compliance point as specified under subsection (6) of this section. The ground water monitoring system must comply with subsection (8)(a)(ii), (b), and (c) of this section.

(c) The department will specify the sampling procedures and statistical methods appropriate for the constituents and the facility, consistent with subsection (8)(g) and (h) of this section.

(i) The owner or operator must conduct a sampling program for each chemical parameter or dangerous constituent in accordance with subsection (8) (g) of this section.

(ii) The owner or operator must record ground water analytical data as measured and in form necessary for the determination of statistical significance under subsection (8)(h) of this section for the compliance period of the facility.

(d) The owner or operator must determine whether there is statistically significant evidence of increased contamination for any chemical parameter or dangerous constituent specified in the permit, pursuant to (a) of this subsection, at a frequency specified under (f) of this subsection.

(i) In determining whether statistically significant evidence of increased contamination exists, the owner or operator must use the method(s) specified in the permit under subsection (8)(h) of this section. The method(s) must compare data collected at the compliance point(s) to a concentration limit developed in accordance with subsection (5) of this section.

(ii) The owner or operator must determine whether there is statistically significant evidence of increased contamination at each monitoring well at the compliance point within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit, after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of ground water samples.

(e) The owner or operator must determine the rate and direction of ground water flow in the uppermost aquifer at least annually.

(f) The department will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with subsection (8)(g) of this section. A sequence of at least four samples from each well (background and compliance wells) must be collected at least semiannually during the compliance period of the facility.

(g) The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Part 264 at least annually to determine whether additional dangerous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in (f) of this subsection. If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constitutents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the department within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the department within seven days after completion of the initial analysis and add them to the monitoring list. If the owner or operator determines, pursuant to (d) of this subsection, that any concentration limits under subsection (5) of this section are being exceeded at any monitoring well at the point of compliance, he must:

(i) Notify the department of this finding in writing within seven days. The notification must indicate what concentration limits have been exceeded;

(ii) Submit to the department an application for a permit modification to establish a corrective action program meeting the requirements of subsection (11) of this section, within ninety days, or within sixty days if an engineering feasibility study has been previously submitted to the department under subsection (9)(h)(v) of this section. For regulated units managing EHW, time frames of sixty days and forty-five days, respectively will apply. However, if the department finds that the full extent of the ninety/sixty-day or the sixty/forty-five-day time periods will increase the likelihood to cause a threat to public health, or the environment, it can at its discretion reduce their duration. In specifying shorter limits, the department will consider the following factors:

(A) The physical and chemical characteristics of the dangerous constituents and parameters in the ground water;

(B) The hydrogeological characteristics of the facility and of the surrounding land;

(C) The rate of movement and direction of flow of the affected ground water;

(D) The proximity to and withdrawal rates of ground water users downgradient; and

(E) The current and future uses of ground water in the concerned area; and

(iii) The application must at a minimum include the following information:

(A) A detailed description of corrective actions that will achieve compliance with the ground water protection standard specified in the permit; and

(B) A plan for a ground water monitoring program that will demonstrate the effectiveness of the corrective action.

(i) If the owner or operator determines, pursuant to (d) of this subsection, that the ground water concentration limits under this section are being exceeded at any monitoring well at the point of compliance, he may demonstrate that a source other than a regulated unit caused the contamination or that the detection is an artifact caused by an error in sampling, analysis, or statistical evaluation or natural variation in the ground water. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department which demonstrates that a source other than a regulated unit caused the standard to be exceeded or that the apparent noncompliance with the standards resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make appropriate changes to the compliance monitoring program at the facility; and

(iv) Continue to monitor in accord with the compliance monitoring program established under this section.

(j) If the owner or operator determines that the compliance monitoring program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(11) Corrective action program. An owner or operator required to establish a corrective action program under this section must, at a minimum, discharge the responsibilities described in this subsection.

(a) The owner or operator must take corrective action to ensure that regulated units are in compliance with the ground water protection standard under subsection (3) of this section. The department will specify the ground water protection standard in the facility permit, including:

(i) A list of the dangerous constituents and parameters identified under subsection (4) of this section;

(ii) Concentration limits under subsection (5) of this section, for each of those dangerous constituents and parameters;

(iii) The compliance point under subsection (6) of this section; and

(iv) The compliance period under subsection (7) of this section.

(b) The owner or operator must implement a corrective action program that prevents dangerous constituents and parameters from exceeding their respective concentration limits at the compliance point by removing the dangerous waste constituents and parameters or treating them in place. The permit will specify the specific measures that will be taken.

(c) The owner or operator must begin corrective action within a reasonable time period after the ground water protection standard is exceeded. The department will specify that time period in the facility permit. If a facility permit

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includes a corrective action program in addition to a compliance monitoring program, the permit will specify when the corrective action will begin and such a requirement will operate in lieu of subsection (10)(i)(ii) of this section.

(d) In conjunction with a corrective action program, the owner or operator must establish and implement a ground water monitoring program to demonstrate the effectiveness of the corrective action program. Such a monitoring program may be based on the requirements for a compliance monitoring program under subsection (10) of this section, and must be as effective as that program in determining compliance with the ground water protection standard under subsection (3) of this section, and in determining the success of a corrective action program under (e) of this subsection, where appropriate.

(e) In addition to the other requirements of this section, the owner or operator must conduct a corrective action program to remove or treat in place any dangerous constituents or parameters under subsection (4) of this section, that exceed concentration limits under subsection (5) of this section, in ground water between the compliance point under subsection (6) of this section, and the downgradient facility property boundary; and beyond the facility boundary, where necessary to protect human health and the environment, unless the owner or operator demonstrates to the satisfaction of the department that, despite the owner's or operator's best efforts, the owner or operator was unable to obtain the necessary permission to undertake such action. The owner/operator is not relieved of all responsibility to clean up a release that has migrated beyond the facility boundary where off-site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. For a facility seeking or required to have a permit, the corrective action measures to be taken must be specified in the permit.

(i) Corrective action measures under this subsection must be initiated at the effective date of the modified permit and completed without time delays considering the extent of contamination.

(ii) Corrective action measures under this subsection may be terminated once the concentration of dangerous constituents and parameters under subsection (4) of this section, is reduced to levels below their respective concentration limits under subsection (5) of this section.

(f) The owner or operator must continue corrective action measures during the compliance period to the extent necessary to ensure that the ground water protection standard is not exceeded. If the owner or operator is conducting corrective action at the end of the compliance period, he must continue that corrective action for as long as necessary to achieve compliance with the ground water protection standard. The owner or operator may terminate corrective action measures taken beyond the period equal to the active life of the waste management area (including the closure period) if he can demonstrate, based on data from the ground water monitoring program under (d) of this subsection, that the ground water protection standard of subsection (3) of this section, has not been exceeded for a period of three consecutive years.

(g) The owner or operator must report in writing to the department on the effectiveness of the corrective action program. The owner or operator must submit these reports semiannually.

(h) If the owner or operator determines that the corrective action program no longer satisfies the requirements of this section, he must, within forty-five days, submit an application for a permit modification to make any appropriate changes to the program.

(12) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under WAC 173-303-645 using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by an action issued pursuant to the Model Toxics Control Act ((~~shall~~)) will be in compliance with the requirements of WAC 173-303-645 and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation ((~~shall~~)) will in no way affect the timing or scope of review of the Model Toxics Control Act action.

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

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-646 Corrective action. (1) Purpose and applicability.

(a) The provisions of this section establish requirements for corrective action for releases of dangerous wastes and dangerous constituents including releases from solid waste management units.

(b) The provisions of this section apply to facilities seeking or required to have a permit to treat, store, recycle or dispose of dangerous waste.

(c) For the purposes of this section, dangerous constituent ((~~shall~~)) will mean any constituent identified in WAC 173-303-9905 or 40 CFR Part 264 appendix IX, any constituent which caused a waste to be listed or designated as dangerous under the provisions of chapter 173-303 WAC, and any constituent defined as a hazardous substance at RCW 70.105D.020(5).

(2) Requirements.

(a) The owner or operator of a facility must institute corrective action as necessary to protect human health and the environment for all releases of dangerous wastes and dangerous constituents, including releases from all solid waste management units at the facility. Corrective action is required regardless of the time at which waste was managed at the facility or placed in such units and regardless of whether such facilities or units were intended for the management of solid or dangerous waste. Assurances of financial responsibility for such corrective action must be provided.

(b) The owner/operator must implement corrective actions beyond the facility property boundary, where necessary to protect human health and the environment.

Additionally, as necessary to protect human health and the environment, the department may require the owner/operator to implement on site measures to address releases which have migrated beyond the facility boundary. Assurances of financial responsibility for such corrective action must be provided.

(c) In the case of a facility seeking or required to have a permit under the provisions of chapter 173-303 WAC, corrective action must be specified in the permit. The permit will contain schedules of compliance for such corrective action (where such corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completion of such corrective action.

(3) Use of the Model Toxics Control Act.

(a) The department may require the owner/operator of a facility to fulfill his corrective action responsibilities under subsection (2) of this section using an enforceable action issued pursuant to the Model Toxics Control Act, as amended, (chapter 70.105D RCW) and its implementing regulations.

(b) Corrective action requirements imposed by the department in an action issued pursuant to the Model Toxics Control Act ((~~shall~~)) will be in compliance with the requirements of subsection (2) of this section and the requirements of chapter 173-303 WAC to the extent required by RCW 70.105D.030 (2)(d) and WAC 173-340-710.

(c) In the case of facilities seeking or required to have a permit under the provisions of this chapter the department will incorporate corrective action requirements imposed pursuant to the Model Toxics Control Act into permits at the time of permit issuance. Such incorporation ((~~shall~~)) will in no way affect the timing or scope of review of the Model Toxics Control Act action.

(4) Corrective action management unit (CAMU).

(a) For the purpose of implementing corrective actions required by subsection (2) of this section, the director may choose to designate an area at a facility as a corrective action management unit. Designation of a CAMU ((~~shall~~)) will be in accordance with the provisions of this subsection and subsections (5) and (6) of this section. The director may choose to designate one or more CAMUs at a facility.

(b) Placement of remediation wastes, as defined in WAC 173-303-040 into or within a CAMU does not constitute land disposal of dangerous waste, however, when necessary to protect human health and the environment, the department may require remediation waste meet land disposal standards before placement in a CAMU.

(c) Consolidation or placement of remediation wastes, as defined in WAC 173-303-040 into or within a CAMU does not constitute creation of a unit subject to the minimum technology requirements of WAC 173-303-140(2), however, when necessary to protect human health and the environment, the department may require a CAMU meet all or part of the minimum technology requirements.

(d) Designation of a CAMU ((~~shall~~)) will not in any way affect the department's existing authorities, including authority under chapter 70.105D RCW, to address clean-up levels, media-specific points of compliance, or other remedy selection decisions.

(e) Designation of a CAMU ((~~shall~~)) will not in any way affect the timing or scope of review of any actions taken under the Model Toxics Control Act pursuant to subsection (3) of this section to fulfill the corrective action requirements of subsection (2) of this section or the corrective action requirements of WAC 173-303-645.

(5) Designation of a corrective action management unit.

(a) When designating a CAMU, the director ((~~shall~~)) will do so in accordance with subsection (4) of this section, and the following:

(i) The CAMU ((~~shall~~)) will facilitate the implementation of reliable, effective, protective, and cost-effective remedies;

(ii) Waste management activities associated with the CAMU ((~~shall~~)) will not create unacceptable risks to humans or the environment resulting from exposure to dangerous wastes or dangerous constituents;

(iii) The CAMU ((~~shall~~)) will include uncontaminated areas of the facility only if including such areas for the purposes of managing remediation wastes is more protective than management of such wastes at contaminated areas of the facility;

(iv) Areas within the CAMU where wastes remain in place after closure of the CAMU, ((~~shall~~)) will be managed and contained so as to minimize future releases of dangerous wastes and dangerous constituents to the extent practicable;

(v) When appropriate and practicable, the CAMU ((~~shall~~)) will expedite the timing of remedial activity implementation;

(vi) The CAMU ((~~shall~~)) will enable the use, when appropriate, of treatment technologies (including innovative technologies) to enhance the long-term effectiveness of remedial actions by reducing the toxicity, mobility, or volume of wastes that will remain in place after closure of the CAMU; and

(vii) The CAMU ((~~shall~~)) will, to the extent practicable, minimize the land area of the facility upon which wastes will remain in place after closure of the CAMU.

(b) When designating a CAMU, the director ((~~shall~~)) will specify requirements for the CAMU including the following:

(i) The areal configuration of the CAMU;

(ii) Requirements for remediation waste management within the CAMU including specification of applicable design, operation, and closure requirements;

(iii) Requirements for ground water and/or vadose zone monitoring that are sufficient to:

(A) Continue to detect and to characterize the nature, extent, concentration, direction, and movement of existing releases of dangerous waste and dangerous constituents in ground water from sources located within the CAMU; and

(B) Detect and subsequently characterize releases of dangerous waste and dangerous constituents to ground water that may occur from areas of the CAMU in which wastes will remain in place after CAMU closure.

(iv) Requirements for closure that ((~~shall~~)) will minimize the need for further maintenance of the CAMU and ((~~shall~~)) will include, as appropriate and deemed necessary by the director, the following:

(A) Requirements for excavation, removal, treatment, and/or containment of wastes;

(B) For areas in which wastes will remain after closure of the CAMU, requirements for capping of such areas; and

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(C) Requirements for removal and decontamination of equipment, devices, and structures used in remediation waste management activities within the CAMU.

(c) In establishing closure requirements for CAMUs under (b)(iv) of this subsection the director ((~~shall~~)) will consider the following factors:

(i) CAMU characteristics;

(ii) Volume of wastes which will remain in place after CAMU closure;

(iii) Potential for releases from the CAMU;

(iv) Physical and chemical characteristics of the waste;

(v) Hydrological and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases in and/or from the CAMU; and

(vi) Potential for exposure of humans and environmental receptors if releases were to occur at or from the CAMU.

(d) The director ((~~shall~~)) will, for areas of the CAMU in which wastes will remain in place after CAMU closure, specify post-closure requirements to control, minimize, or eliminate, to the extent necessary to protect human health and the environment, post-closure escape of dangerous waste, dangerous constituents, leachate, contaminated runoff, and dangerous waste decomposition products to the ground, to ground waters, to surface waters, and to the atmosphere. Such post-closure requirements ((~~shall~~)) will include, as necessary to protect human health and the environment, monitoring and maintenance activities and the frequency with which such activities ((~~shall~~)) will be performed to ensure the integrity of any cap, final cover, or other containment system.

(e) The owner/operator of a facility ((~~shall~~)) must provide sufficient information to enable the director to designate a CAMU in accordance with the criteria in subsections (4), (5)(a) through (d), and (6) of this section.

(f) The director ((~~shall~~)) will document the rationale for designating CAMUs and ((~~shall~~)) will make such documentation available to the public.

(g) Incorporation of the designation of and requirements for a CAMU into a existing permit must be approved by the director according to the procedures for agency initiated permit modifications under WAC 173-303-830(3), or according to the permit modification procedures of WAC 173-303-830(4).

(6) Incorporation of a regulated unit within a CAMU.

(a) The director may designate a regulated unit (as defined in WAC 173-303-040) as a CAMU, or may incorporate a regulated unit into a CAMU, if:

(i) The regulated unit is closed or closing, meaning it has begun the closure process under WAC 173-303-610 or 173-303-400; and

(ii) Inclusion of the regulated unit will enhance implementation of effective, protective and reliable remedial actions at the facility.

(b) The requirements of WAC 173-303-610, 173-303-620, 173-303-645, and the unit specific requirements of WAC 173-303-650 through 173-303-680 that applied to the regulated unit will continue to apply to the portion of the CAMU into which the regulated unit was incorporated.

(7) Temporary units (TUs)

(a) For temporary tanks and container storage areas used for treatment or storage of remediation wastes during implementation of the corrective action requirements of subsection (2) of this section, the director may determine that a design, operating, or closure standard applicable to such units may be replaced by alternative requirements which are protective of human health and the environment.

(b) Any temporary unit to which alternative requirements are applied in accordance with (a) of this subsection ((~~shall~~)) will be:

(i) Located within the facility boundary; and

(ii) Used only for treatment or storage of remediation wastes managed pursuant to implementation of the corrective action requirements of subsection (2) of this section at the facility.

(c) In establishing standards to be applied to a temporary unit, the director ((~~shall~~)) will consider the following factors:

(i) Length of time unit will be in operation;

(ii) Type of unit;

(iii) Volumes of wastes to be managed;

(iv) Physical and chemical characteristics of the wastes to be managed in the unit;

(v) Potential for releases from the unit;

(vi) Hydrogeological and other relevant environmental conditions at the facility which may influence the migration of any potential releases; and

(vii) Potential for exposure of humans and environmental receptors if releases were to occur from the unit.

(d) The director ((~~shall~~)) will specify the length of time, not to exceed one year, a temporary unit will be allowed to operate. The director ((~~shall~~)) will also specify design, operating, and closure requirements for the temporary unit.

(e) The director may extend the operating period of a temporary unit for up to one additional year, provided the director determines that:

(i) Continued operation of the unit will not pose a threat to human health and the environment; and

(ii) Continued operation of the unit is necessary to ensure timely and efficient implementation of remedial actions at the facility.

(f) Incorporation of the designation of and requirements for a temporary unit or a time extension for a temporary unit into an existing permit ((~~shall~~)) will be:

(i) Approved in accordance with the procedures for agency-initiated permit modifications under WAC 173-303-830(3); or

(ii) Requested by the owner or operator as a Class II modification according to the procedures under WAC 173-303-830(4).

(g) The director ((~~shall~~)) will document the rationale for designating a temporary unit and for granting time extensions for temporary units and ((~~shall~~)) will make such documentation available to the public.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-650 Surface impoundments. (1) Applicability. The regulations in this section apply to owners and operators of facilities that use surface impoundments to treat, store, or dispose of dangerous waste.

(2) Design and operating requirements.

(a)(i) ((~~A~~)) Any surface impoundment that is not covered by (j) of this subsection must have a liner for all portions of the impoundment (except for an existing portion of a surface impoundment). The liner must ((~~have a liner that is~~)) be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with subsection (6)(a)(i) of this section. For impoundments that will be closed in accordance with subsection (6)(a)(ii) of this section, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift;

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(D) For EHW management, the owner or operator ((~~shall~~)) must submit an engineering report with ((~~his~~)) their permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report ((~~shall~~)) must be certified by an independent, qualified registered professional engineer.

(ii) The owner or operator of a new surface impoundment installed after October 31, 1984, and in which liquid EHW is managed must:

(A) Install a double lined system which incorporates the specifications of subsection (3)(a), (b), and (c) of this section; and

(B) Must comply with either the ground water monitoring requirements of WAC 173-303-645, or the unsaturated zone monitoring requirements of WAC 173-303-655(6).

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents listed in WAC 173-303-9905, or which otherwise cause his wastes to be regulated under this chapter, into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(d) A surface impoundment must be designed so that any flow of waste into the impoundment can be immediately shut off in the event of overtopping or liner failure.

(e) A surface impoundment must be designed to repel birds.

(f) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent their failure. In ensuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(g) Earthen dikes must be kept free of:

(i) Perennial woody plants with root systems which could weaken its structural integrity; and

(ii) Burrowing mammals which could weaken its structural integrity or create leaks through burrows.

(h) Earthen dikes must have a protective cover, such as grass, shale or rock to minimize wind and water erosion and to preserve their structural integrity.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(j) The owner or operator of each new surface impoundment unit on which construction commences after January 29, 1992, each lateral expansion of a surface impoundment unit on which construction commences after July 29, 1992, and each replacement of an existing surface impoundment unit that is to commence reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system between such liners. "Construction commences" is as defined in WAC 173-303-040 under "existing TSD facility."

(i) The liner system must include:

(A) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into such liner during the active life and post-closure care period; and

(B) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of dangerous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(ii) The liners must comply with (a)(i)(A), (B), and (C) of this subsection.

(iii) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This

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leak detection system must be capable of detecting, collecting, and removing leaks of dangerous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a leak detection system in this paragraph are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of one percent or more;

(B) Constructed of granular drainage materials with a hydraulic conductivity of 1 x 10^{-1}/cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3 x 10^{-4}/m^2sec or more;

(C) Constructed of materials that are chemically resistant to the waste managed in the surface impoundment and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes and any waste cover materials or equipment used at the surface impoundment;

(D) Designed and operated to minimize clogging during the active life and post-closure care period; and

(E) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump(s). The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(iv) The owner or operator will collect and remove pumpable liquids in the sumps to minimize the head on the bottom liner.

(v) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of ground water.

(k) The department may approve alternative design or operating practices to those specified in (j) of this subsection if the owner or operator demonstrates to the department that such design and operating practices, together with location characteristics:

(i) Will prevent the migration of any dangerous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal system specified in (j) of this subsection; and

(ii) Will allow detection of leaks of dangerous constituents through the top liner at least as effectively.

(l) The double liner requirement set forth in (j) of this subsection may be waived by the department for any monofill, if:

(i) The monofill contains only dangerous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes dangerous for reasons other than the toxicity characteristic in WAC 173-303-090(8) or the toxicity criteria at WAC 173-303-100(5); and

(ii)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking. For the purposes of this paragraph, the term "liner" means a liner designed, constructed, installed, and operated to prevent dangerous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent dangerous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of (j) of this subsection on the basis of a liner designed, constructed, installed, and operated to prevent dangerous waste from passing beyond the liner, at the closure of such impoundment, the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment will comply with appropriate post-closure requirements, including but not limited to ground water monitoring and corrective action;

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 40 CFR Section 144.3); and

(C) The monofill is in compliance with generally applicable ground water monitoring requirements for facilities with permits under RCRA section 3005(c); or

(iii) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any dangerous constituent into ground water or surface water at any future time.

(m) The owner or operator of any replacement surface impoundment unit is exempt from (j) of this subsection if:

(i) The existing unit was constructed in compliance with the design standards of sections 3004 (o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(ii) There is no reason to believe that the liner is not functioning as designed.

(3) ((~~Double-lined surface impoundments; exemption from WAC 173-303-645, ground water protection requirements.~~

~~(a) Except as provided in subsection (2)(a)(ii) of this section, the owner or operator of a double-lined surface impoundment is not subject to regulation under WAC 173-303-645 if the following conditions are met:~~

~~(i) The impoundment (including its underlying liners) must be located entirely above the seasonal high water table;~~

~~(ii) The impoundment must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) of this section;~~

~~(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and~~

~~(iv) A leachate detection, collection and removal system must be designed and operated to remove accumulated liquids from the system as quickly as possible so as to avoid unnecessary buildup of hydrostatic pressure in the system.~~

~~(b) If liquid leaks into the leak detection system, the owner or operator must:~~

~~(i) Notify the department of the leak in writing within seven days after detecting the leak; and~~

~~(ii)(A) Within a period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the~~

~~liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or~~

~~(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.~~

~~(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.~~)) Reserve.

(4) Monitoring and inspection.

(a) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from subsection (2)(a)(i) of this section) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of overtopping control systems;

(ii) Sudden drops in the level of the impoundment's contents; and

(iii) ((~~The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section; and~~

~~(iv)~~)) Severe erosion or other signs of deterioration in dikes or other containment devices.

(c) Prior to the issuance of a permit, and after any extended period of time (at least six months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(i) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(ii) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(d)(i) An owner or operator required to have a leak detection system under subsection (2)(j) or (k) of this section must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(ii) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(iii) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the department based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

(5) Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with (b) of this subsection when:

(i) Unexpected changes of liquid levels occur; or

(ii) The dike leaks.

(b) When a surface impoundment must be removed from service as required by (a) of this subsection, the owner or operator must:

(i) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(ii) Immediately contain any surface leakage which has occurred or is occurring;

(iii) Immediately stop the leak;

(iv) Take any other necessary steps to stop or prevent catastrophic failure;

(v) Empty the impoundment, if a leak cannot be stopped by any other means; and

(vi) Notify the department of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in WAC 173-303-340 through 173-303-360, the owner or operator must specify:

(i) A procedure for complying with the requirements of (b) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; description of a schedule of actions to be taken in the event of a possible failure; and the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the impoundment to be removed from service.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(i) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with subsection (4)(c) of this section;

(ii) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(A) For any existing portion of the impoundment, a liner must be installed in compliance with subsection (2)(a)(i) or (3) of this section; and

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(B) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of subsection (6) of this section.

(6) Closure and post-closure care.

(a) At closure, the owner or operator must:

(i) Remove or decontaminate all dangerous waste and dangerous waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with dangerous waste and leachate, and manage them as dangerous waste; or

(ii) If the surface impoundment will be closed as a landfill, except that this option is prohibited if EHW would remain in the closed unit(s):

(A) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(B) Stabilize remaining wastes to a bearing capacity sufficient to support a final cover; and

(C) Cover the surface impoundment with a final cover designed and constructed to:

(I) Provide long-term minimization of the migration of liquids through the closed impoundment with a material that has a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present;

(II) Function with minimum maintenance;

(III) Promote drainage and minimize erosion or abrasion of the final cover; and

(IV) Accommodate settling and subsidence so that the cover's integrity is maintained.

(b) If some waste residues or contaminated materials are left in place at final closure (except that no EHW may ever be left in place), the owner or operator must comply with all post-closure requirements contained in WAC 173-303-610 (7), (8), (9), and (10), including maintenance and monitoring throughout the post-closure care period (specified in the permit). The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with ((~~subsection (3) of this section, where such a system is present between double liner systems~~)) subsections (2)(j)(ii)(D) and (E), and (4)(d) of this section, and comply with all other applicable leak detection system requirements of this chapter;

(iii) Maintain and monitor the ground water monitoring system and comply with all applicable requirements of WAC 173-303-645; and

(iv) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(i) If an owner or operator plans to close a surface impoundment in accordance with (a)(i) of this subsection, and the impoundment does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (2)(b) of this section, then:

(A) The closure plan for the impoundment under WAC 173-303-610(3) must include both a plan for complying with (a)(i) of this subsection, and a contingent plan for complying with (a)(ii) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) The owner or operator must prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and post-closure care of an impoundment subject to (c) of this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a)(i) of this subsection.

((~~(d) During the post-closure care period, if liquids leak into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will then modify the permit to require compliance with applicable requirements of WAC 173-303-645, or, if so requested by the owner or operator, to require removal of all materials in accordance with (a)(i) of this subsection.~~)) Reserve.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of WAC 173-303-140 (2)(a), and:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090; and

(ii) WAC 173-303-395 (1)(b) is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; or

(c) The surface impoundment is used solely for emergencies.

(8) Special requirements for incompatible wastes. Incompatible wastes and materials must not be placed in the same surface impoundment, unless WAC 173-303-395 (1)(b) is complied with.

(9) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) The wastes F020, F021, F022, F023, F026, or F027 must not be placed in a surface impoundment unless the owner or operator operates the surface impoundment in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

(10) Action leakage rate.

(a) The department will approve an action leakage rate for surface impoundment units subject to WAC 173-303-650 (2)(j) or (k). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under WAC 173-303-650 (4)(d) to an average daily flow rate (gallons per acre per day) for each sump. Unless the department approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and if the unit is closed in accordance with WAC 173-303-650 (6)(b), monthly during the post-closure care period when monthly monitoring is required under WAC 173-303-650 (4)(d).

(11) Response actions.

(a) The owner or operator of surface impoundment units subject to subsection (2)(j) or (k) of this section must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in (b) of this subsection.

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(i) Notify the department in writing of the exceedance within seven days of the determination;

(ii) Submit a preliminary written assessment to the department within fourteen days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(iii) Determine to the extent practicable the location, size, and cause of any leak;

(iv) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(v) Determine any other short-term and longer-term actions to be taken to mitigate or stop any leaks; and

(vi) Within thirty days after the notification that the action leakage rate has been exceeded, submit to the department the results of the analyses specified in (b) (iii), (iv), and (v) of this subsection, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the department a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in (b) (iii), (iv), and (v) of this subsection, the owner or operator must:

(i) Assess the source of liquids and amounts of liquids by source;

(ii) Conduct a fingerprint, dangerous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(iv) Document why such assessments are not needed.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-655 Land treatment. (1) Applicability. The regulations in this subpart apply to owners and operators of facilities that treat or dispose of dangerous waste in land treatment units, except as WAC 173-303-600 provides otherwise.

(2) Treatment program.

(a) An owner or operator subject to this section must establish a land treatment program that is designed to ensure that dangerous constitutents placed in or on the treatment zone are degraded, transformed, or immobilized within the treatment zone. The department will specify in the facility permit the elements of the treatment program, including:

(i) The wastes that are capable of being treated at the unit based on a demonstration under subsection (3) of this section;

(ii) Design measures and operating practices necessary to maximize the success of degradation, transformation, and immobilization processes in the treatment zone in accordance with subsection (4)(a) of this section; and

(iii) Unsaturated zone monitoring provisions meeting the requirements of subsection (6) of this section.

(b) The department will specify in the facility permit the dangerous constituents that must be degraded, transformed, or immobilized under this section. Dangerous constituents are constituents identified in WAC 173-303-9905, and any other constituents which, although not listed in WAC 173-303-9905, cause a waste to be regulated under this chapter, that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(c) The department will specify the vertical and horizontal dimensions of the treatment zone in the facility permit. The treatment zone is the portion of the unsaturated zone below, and including, the land surface in which the owner or operator intends to maintain the conditions necessary for effective degradation, transformation, or immobilization of dangerous constituents. The maximum depth of the treatment zone must be:

(i) No more than 1.5 meters (5 feet) below the initial soil surface; and

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(ii) More than 3 meters (10 feet) above the seasonal high water table; except that the owner or operator may demonstrate to the satisfaction of the department that a distance of less than 3 meters will be adequate. In no case ((~~shall~~)) will the distance be less than 1 meter.

(3) Treatment demonstration.

(a) For each waste that will be applied to the treatment zone, the owner or operator must demonstrate, prior to application of the waste, that dangerous constitutents in the waste can be completely degraded, transformed, or immobilized in the treatment zone.

(b) In making this demonstration, the owner or operator may use field tests, laboratory analyses, available data, or, in the case of existing units, operating data. If the owner or operator intends to conduct field tests or laboratory analyses in order to make the demonstration required under (a) of this subsection, he must obtain a land treatment demonstration permit under WAC 173-303-808. The department will specify in this permit the testing, analytical, design, and operating requirements (including the duration of the tests and analyses, and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, monitoring procedures, closure, and clean-up activities) necessary to meet the requirements in (c) of this subsection.

(c) Any field test or laboratory analysis conducted in order to make a demonstration under (a) of this subsection must:

(i) Accurately simulate the characteristics and operating conditions for the proposed land treatment unit including:

(A) The characteristics of the waste and of dangerous constituents present;

(B) The climate in the area;

(C) The topography of the surrounding area;

(D) The characteristics and depth of the soil in the treatment zone; and

(E) The operating practices to be used at the unit;

(ii) Be likely to show that dangerous constituents in the waste to be tested will be completely degraded, transformed, or immobilized in the treatment zone of the proposed land treatment unit; and

(iii) Be conducted in a manner that protects human health and the environment considering:

(A) The characteristics of the waste to be tested;

(B) The operating and monitoring measures taken during the course of the test;

(C) The duration of the test;

(D) The volume of waste used in the test; and

(E) In the case of field tests, the potential for migration of dangerous constituents to ground water or surface water.

(4) Design and operating requirements. The department will specify in the facility permit how the owner or operator will design, construct, operate, and maintain the land treatment unit in compliance with this subsection.

(a) The owner or operator must design, construct, operate, and maintain the unit to maximize the degradation, transformation, and immobilization of dangerous constituents in the treatment zone. The owner or operator must design, construct, operate, and maintain the unit in accordance with all design and operating conditions that were used in the treatment demonstration under subsection (3) of this section. At a minimum, the department will specify in the facility permit:

(i) The rate and method of waste application to the treatment zone;

(ii) Measures to control soil pH;

(iii) Measures to enhance microbial or chemical reactions (e.g., fertilization, tilling); and

(iv) Measures to control the moisture content of the treatment zone.

(b) The owner or operator must design, construct, operate, and maintain the treatment zone to minimize run-off of dangerous constituents during the active life of the land treatment unit.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the treatment zone during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain the design capacity of the system.

(f) If the treatment zone contains particulate matter which may be subject to wind dispersal, the owner or operator must control wind dispersal.

(g) The owner or operator must inspect the unit weekly and after storms to detect evidence of:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems; and

(ii) Improper functioning of wind dispersal control measures.

(5) Food chain crops. The department may allow the growth of food chain crops in or on the treatment zone only if the owner or operator satisfies the conditions of this subsection. The department will specify in the facility permit the specific food chain crops which may be grown.

(a)(i) The owner or operator must demonstrate that there is no substantial risk to human health caused by the growth of such crops in or on the treatment zone by demonstrating, prior to the planting of such crops, that dangerous constituents other than cadmium:

(A) Will not be transferred to the food or feed portions of the crop by plant uptake or direct contact, and will not otherwise be ingested by food chain animals (e.g., by grazing); or

(B) Will not occur in greater concentrations in or on the food or feed portions of crops grown on the treatment zone than in or on identical portions of the same crops grown on untreated soils under similar conditions in the same region.

(ii) The owner or operator must make the demonstration required under (a)(i) of this subsection prior to the planting of crops at the facility for all dangerous constituents that are reasonably expected to be in, or derived from, waste placed in or on the treatment zone.

(iii) In making such a demonstration, the owner or operator may use field tests, greenhouse studies, available data, or, in the case of existing units, operating data, and must:

(A) Base the demonstration on conditions similar to those present in the treatment zone, including soil character-

istics (e.g., pH, cation exchange capacity), specific wastes, application rates, application methods, and crops to be grown; and

(B) Describe the procedures used in conducting any tests, including the sample selection criteria, sample size, analytical methods, and statistical procedures.

(iv) If the owner or operator intends to conduct field tests or greenhouse studies in order to make the demonstration he must obtain a permit for conducting such activities.

(b) The owner or operator must comply with the following conditions if cadmium is contained in wastes applied to the treatment zone;

(i)(A) The pH of the waste and soil mixture must be 6.5 or greater at the time of each waste application, except for waste containing cadmium at concentrations of 2 mg/kg (dry weight) or less;

(B) The annual application of cadmium from waste must not exceed 0.5 kilograms per hectare (kg/ha) on land used for production of tobacco, leafy vegetables, or root crops grown for human consumption. For other food chain crops, the annual cadmium application rate must not exceed:

Time period	Annual Cd application rate (kilograms per hectare)
Present to June 30, 1984	2.0
July 1, 1984 to Dec. 31, 1986	1.25
Beginning Jan. 1, 1987	0.5

(C) The cumulative application of cadmium from waste must not exceed 5kg/ha if the waste and soil mixture has a pH of less than 6.5; and

(D) If the waste and soil mixture has a pH of 6.5 or greater or is maintained at a pH of 6.5 or greater during crop growth, the cumulative application of cadmium from waste must not exceed: 5 kg/ha if soil cation exchange capacity (CEC) is less than 5 meq/100g; 10 kg/ha if soil CEC is 5-15 meq/100g; and 20 kg/ha if soil CEC is greater than 15 meq/100g; or

(ii)(A) Animal feed must be the only food chain crop produced;

(B) The pH of the waste and soil mixture must be 6.5 or greater at the time of waste application or at the time the crop is planted, whichever occurs later, and this pH level must be maintained whenever food chain crops are grown;

(C) There must be an operating plan which demonstrates how the animal feed will be distributed to preclude ingestion by humans. The operating plan must describe the measures to be taken to safeguard against possible health hazards from cadmium entering the food chain, which may result from alternative land uses; and

(D) Future property owners must be notified by a stipulation in the land record or property deed which states that the property has received waste at high cadmium application rates and that food chain crops must not be grown except in compliance with (b)(ii) of this subsection.

(6) Unsaturated zone monitoring. An owner or operator subject to this section must establish an unsaturated zone monitoring program to discharge the responsibilities described in this subsection.

(a) The owner or operator must monitor the soil and soil-pore liquid to determine whether dangerous constituents migrate out of the treatment zone.

(i) The department will specify the dangerous constituents to be monitored in the facility permit. The dangerous constituents to be monitored are those specified under subsection (2)(b) of this section.

(ii) The department may require monitoring for principal dangerous constituents (PDCs) in lieu of the constituents specified under subsection (2)(b) of this section. PDCs are dangerous constituents contained in the wastes to be applied at the unit that are the most difficult to treat, considering the combined effects of degradation, transformation, and immobilization. The department will establish PDCs if it finds, based on waste analyses, treatment demonstrations, or other data, that effective degradation, transformation, or immobilization of the PDCs will assure treatment at least equivalent levels for the other dangerous constituents in the wastes.

(b) The owner or operator must install an unsaturated zone monitoring system that includes soil monitoring using soil cores and soil-pore liquid monitoring using devices such as lysimeters. The unsaturated zone monitoring system must consist of a sufficient number of sampling points at appropriate locations and depths to yield samples that:

(i) Represent the quality of background soil-pore liquid quality and the chemical make-up of soil that has not been affected by leakage from the treatment zone; and

(ii) Indicate the quality of soil-pore liquid and the chemical make-up of the soil below the treatment zone.

(c) The owner or operator must establish a background value for each dangerous constituent to be monitored under (a) of this subsection. The permit will specify the background values for each constituent or specify the procedures to be used to calculate the background values.

(i) Background soil values may be based on a one-time sampling at a background plot having characteristics similar to those of the treatment zone.

(ii) Background soil-pore liquid values must be based on at least quarterly sampling for one year at a background plot having characteristics similar to those of the treatment zone.

(iii) The owner or operator must express all background values in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(iv) In taking samples used in the determination of all background values, the owner or operator must use an unsaturated zone monitoring system that complies with (b)(i) of this subsection.

(d) The owner or operator must conduct soil monitoring and soil-pore liquid monitoring immediately below the treatment zone. The department will specify the frequency and timing of soil and soil-pore liquid monitoring in the facility permit after considering the frequency, timing, and rate of waste application, and the soil permeability. The owner or operator must express the results of soil and soil-pore liquid monitoring in a form necessary for the determination of statistically significant increases under (f) of this subsection.

(e) The owner or operator must use consistent sampling and analysis procedures that are designed to ensure sampling results that provide a reliable indication of soil-pore liquid quality and the chemical make-up of the soil below the

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treatment zone. At a minimum, the owner or operator must implement procedures and techniques for:

(i) Sample collection;

(ii) Sample preservation and shipment;

(iii) Analytical procedures; and

(iv) Chain of custody control.

(f) The owner or operator must determine whether there is a statistically significant change over background values for any dangerous constituent to be monitored under (a) of this subsection, below the treatment zone each time he conducts soil monitoring and soil-pore liquid monitoring under (d) of this subsection.

(i) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent, as determined under (d) of this subsection, to the background value for that constituent according to the statistical procedure specified in the facility permit under this subsection.

(ii) The owner or operator must determine whether there has been a statistically significant increase below the treatment zone within a reasonable time period after completion of sampling. The department will specify that time period in the facility permit after considering the complexity of the statistical test and the availability of laboratory facilities to perform the analysis of soil and soil-pore liquid samples.

(iii) The owner or operator must determine whether there is a statistically significant increase below the treatment zone using a statistical procedure that provides reasonable confidence that migration from the treatment zone will be identified. The department will specify a statistical procedure in the facility permit that it finds:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying migration from the treatment zone and the probability of failing to identify real migration from the treatment zone.

(g) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he must:

(i) Notify the department of his finding in writing within seven days. The notification must indicate what constituents have shown statistically significant increases;

(ii) Within forty-five days, submit to the department an application for a permit modification to amend the operating practices at the facility in order to maximize the success of degradation, transformation, or immobilization processes in the treatment zone; and

(iii) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(h) If the owner or operator determines, pursuant to (f) of this subsection, that there is a statistically significant increase of dangerous constituents below the treatment zone, he may demonstrate that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. While the owner or operator may make a demonstration under this subsection, he is not relieved of the requirement to submit concurrently a permit modification application within the forty-five-day period, unless the demonstration made under this subsection successfully shows that a source other than regulated units caused the increase or that the increase resulted from an error in sampling, analysis, or evaluation. In making a demonstration under this subsection, the owner or operator must:

(i) Notify the department in writing within seven days of determining a statistically significant increase below the treatment zone that he intends to make a demonstration under this subsection;

(ii) Within forty-five days, submit a report to the department demonstrating that a source other than the regulated units caused the increase or that the increase resulted from error in sampling, analysis, or evaluation;

(iii) Within forty-five days, submit to the department an application for a permit modification to make any appropriate changes to the unsaturated zone monitoring program at the facility; and

(iv) Continue to monitor in accordance with the unsaturated zone monitoring program established under this subsection.

(7) Recordkeeping. The owner or operator must include dangerous waste application dates and rates in the operating record required under WAC 173-303-380.

(8) Closure and postclosure care.

(a) During the closure period the owner or operator must:

(i) Continue all operations (including pH control) necessary to maximize degradation, transformation, or immobilization of dangerous constituents within the treatment zone as required under subsection (4)(a) of this section, except to the extent such measures are inconsistent with (a)(viii) of this subsection;

(ii) Continue all operations in the treatment zone to minimize run-off of dangerous constituents as required under subsection (4)(b) of this section;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section;

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated ninety days after the last application of waste to the treatment zone; and

(viii) Establish a vegetative cover on the portion of the facility being closed at such time that the cover will not substantially impede degradation, transformation, or immobilization of dangerous constituents in the treatment zone. The vegetative cover must be capable of maintaining growth without extensive maintenance.

(b) For the purpose of complying with WAC 173-303-610(6) when closure is completed, the owner or operator may submit to the department a certification by an independent qualified soil scientist, in lieu of an independent, qualified registered professional engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) During the postclosure care period the owner or operator must:

(i) Continue all operations (including pH control) necessary to enhance degradation and transformation and sustain immobilization of dangerous constituents in the treatment zone to the extent that such measures are consistent with other postclosure care activities;

(ii) Maintain a vegetative cover over closed portions of the facility;

(iii) Maintain the run-on control system required under subsection (4)(c) of this section;

(iv) Maintain the run-off management system required under subsection (4)(d) of this section;

(v) Control wind dispersal of dangerous waste, if required under subsection (4)(f) of this section;

(vi) Continue to comply with any prohibitions or conditions concerning growth of food chain crops under subsection (5) of this section; and

(vii) Continue unsaturated zone monitoring in compliance with subsection (6) of this section, except that soil-pore liquid monitoring may be terminated one hundred eighty days after the last application of waste to the treatment zone.

(d) The owner or operator is not subject to regulation under (a)(viii) and (c) of this subsection, if the department finds that the level of dangerous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in (d)(iii) of this subsection. The owner or operator may submit such a demonstration to the department at any time during the closure or postclosure care periods. For the purposes of this subsection:

(i) The owner or operator must establish background soil values and determine whether there is a statistically significant increase over those values for all dangerous constituents specified in the facility permit under subsection (2)(b) of this section;

(A) Background soil values may be based on a one-time sampling of a background plot having characteristics similar to those of the treatment zone;

(B) The owner or operator must express background values and values for dangerous constituents in the treatment zone in a form necessary for the determination of statistically significant increases under (d)(iii) of this subsection;

(ii) In taking samples used in the determination of background and treatment zone values, the owner or operator must take samples at a sufficient number of sampling points and at appropriate locations and depths to yield samples that represent the chemical make-up of soil that has not been affected by leakage from the treatment zone and the soil within the treatment zone, respectively;

(iii) In determining whether a statistically significant increase has occurred, the owner or operator must compare the value of each constituent in the treatment zone to the background value for that constituent using a statistical procedure that provides reasonable confidence that constituent presence in the treatment zone will be identified. The owner or operator must use a statistical procedure that:

(A) Is appropriate for the distribution of the data used to establish background values; and

(B) Provides a reasonable balance between the probability of falsely identifying dangerous constituent presence in the treatment zone and the probability of failing to identify real presence in the treatment zone.

(e) The owner or operator is not subject to regulation under WAC 173-303-645 if the department finds that the owner or operator satisfies (d) of this subsection, and if unsaturated zone monitoring under subsection (6) of this section, indicates that dangerous constituents have not migrated beyond the treatment zone during the active life of the land treatment unit.

(9) Special requirements for ignitable or reactive waste. The owner or operator must not apply ignitable or reactive waste to the treatment zone unless the waste and the treatment zone meet all applicable requirements of WAC 173-303-140 (2)(a), and:

(a) The waste is immediately incorporated into the soil so that:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) and (7); and

(ii) WAC 173-303-395 is complied with; or

(b) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react.

(10) Special requirements for incompatible wastes. The owner or operator must not place incompatible wastes, or incompatible wastes and materials, in or on the same treatment zone, unless WAC 173-303-395 (1)(b) is complied with.

(11) Special requirements for extremely hazardous waste. Under no circumstances will EHW be allowed to remain in a closed land treatment unit after concluding the postclosure care period. If EHW remains at the end of the scheduled postclosure care period specified in the permit, then the department will either extend the postclosure care period, or require that all EHW be disposed of off-site or that it be treated. In deciding whether to extend postclosure care or require disposal or treatment, the department will take into account the likelihood that the waste will or will not continue to degrade in the land treatment unit to the extent that it is no longer EHW. For the purposes of this subsection, EHW will be considered to remain in a land treatment unit if representative samples of the treatment zone are designated as EHW. Procedures for representative sampling and testing will be specified in the permit.

(12) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, or F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

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(b) The department may determine that additional design, operating, and monitoring requirements are necessary for land treatment facilities managing dangerous wastes F020, F021, F022, F023, F026, or F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

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.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-660 Waste piles. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that store or treat dangerous waste in piles.

(b) The regulations in this section do not apply to owners or operators of waste piles that will be closed with wastes left in place. Such waste piles are subject to regulation under WAC 173-303-665 (Landfills).

(c) The owner or operator of any waste pile that is inside or under a structure that provides protection from precipitation so that neither run-off nor leachate is generated is not subject to regulation under subsection (2) of this section, or under WAC 173-303-645, provided that:

(i) Liquids or materials containing free liquids are not placed in the pile;

(ii) The pile is protected from surface water run-on by the structure or in some other manner;

(iii) The pile is designed and operated to control dispersal of the waste by wind, by means other than wetting; and

(iv) The pile will not generate leachate through decomposition or other reactions.

(d) ((~~All EHW and respiratory carcinogens stored in waste piles must be protected from dispersal by precipitation or wind (e.g., covered, stored inside a building, etc.).~~)) Reserve.

(2) Design and operating requirements.

(a) A waste pile (except for an existing portion of a waste pile) must have:

(i) A liner that is designed, constructed, installed and maintained to prevent any migration of wastes out of the pile into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the waste pile. The liner may be constructed of materials that may allow waste to migrate into the liner itself (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the pile. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the pile and to the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying wastes, waste cover materials, and by any equipment used at the pile; and

(B) Designed and operated to function without clogging through the scheduled closure of the waste pile.

(b) A liner and leachate collection and removal system must be protected from plant growth which could adversely affect any component of the system.

(c) ((~~For EHW management,~~)) The owner or operator ((~~shall~~)) must submit an engineering report with his permit application stating the basis for selecting the liner required in subsection (2)(a)(i) of this section. The statement ((~~shall~~)) must be certified by an independent, qualified registered professional engineer.

(d) The owner or operator will be exempted from the requirements of (a), (b), and (c) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any dangerous constituents identified under WAC 173-303-645(4) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including attenuative capacity and thickness of the liners and soils present between the pile and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(e) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto any portion of the pile during peak discharge from at least a twenty-five-year storm.

(f) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(g) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(h) If the pile contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the pile to control wind dispersal.

(i) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(j) The owner or operator of each new waste pile unit on which construction commences after January 29, 1992, each lateral expansion of a waste pile unit on which construction commences after July 29, 1992, and each replacement of an existing waste pile unit that commences reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners. "Construction commences" is as defined in WAC 173-303-040 under "existing facility."

(i) The liner system must include:

(A) A top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into such liner during the active life and post-closure care period; and

(B) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of dangerous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(C) The liners must comply with (a)(i), (A), (B), and (C) of this subsection.

(ii) The leachate collection and removal system immediately above the top liner must be designed, constructed, operated, and maintained to collect and remove leachate from the waste pile during the active life and post-closure care period. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed twelve inches (30.5 cm). The leachate collection and removal system must comply with (j)(iii) (D) and (E) of this subsection.

(iii) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of dangerous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a leak detection system in this paragraph are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of one percent or more;

(B) Constructed of granular drainage materials with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m^2/sec or more;

(C) Constructed of materials that are chemically resistant to the waste managed in the waste pile and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and equipment used at the waste pile;

(D) Designed and operated to minimize clogging during the active life and post-closure care period; and

(E) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump(s). The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(iv) The owner or operator will collect and remove pumpable liquids in the leak detection system sumps to minimize the head on the bottom liner.

(v) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of ground water.

(k) The department may approve alternative design or operating practices to those specified in (j) of this subsection if the owner or operator demonstrates to the department that such design and operating practices, together with location characteristics:

(i) Will prevent the migration of any dangerous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal systems specified in (c) of this subsection; and

(ii) Will allow detection of leaks of dangerous constituents through the top liner at least as effectively.

(l) Subitem (j) of this subsection does not apply to monofills that are granted a waiver by the department in accordance with WAC 173-303-650(2)(l).

(m) The owner or operator of any replacement waste pile unit is exempt from (j) of this subsection if:

(i) The existing unit was constructed in compliance with the design standards of section 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(ii) There is no reason to believe that the liner is not functioning as designed.

(3) ((~~Double-lined piles; exemption from WAC 173-303-645, ground water protection requirements.~~

~~(a) The owner or operator of a double-lined waste pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:~~

~~(i) The pile (including its underlying liners) must be located entirely above the seasonal high water table;~~

~~(ii) The pile must be underlain by two liners which are designed and constructed in a manner that prevents the migration of liquids into or out of the space between the liners. Both liners must meet all the specifications of subsection (2)(a)(i) and (c) of this section;~~

~~(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquids into the space between the liners; and~~

~~(iv) The pile must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.~~

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~~(b) If liquid leaks into the leak detection system, the owner or operator must:~~

~~(i) Notify the department of the leak in writing within seven days after detecting the leak; and~~

~~(ii)(A) Within the period of time specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or~~

~~(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.~~

~~(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.~~)) Action leakage rate.

(a) The department will approve an action leakage rate for waste piles subject to subsection (2)(j) or (k) of this section. The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly flow rate from the monitoring data obtained under subsection (5)(c) of this section to an average daily flow rate (gallons per acre per day) for each sump. Unless the department approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period.

(4) ((~~Inspection of liners; exemption from WAC 173-303-645, ground water protection requirements.~~

~~(a) The owner or operator of a pile is not subject to regulation under WAC 173-303-645 if the following conditions are met:~~

~~(i) The pile (including its underlying liner) must be located entirely above the seasonal high water table;~~

~~(ii) The pile must be underlain by a liner (base) that meets all the specifications of subsection (2)(a)(i) of this section;~~

~~(iii) The wastes in the pile must be removed periodically, and the liner must be inspected for deterioration, cracks, or other conditions that may result in leaks. The frequency of inspection will be specified in the inspection plan required in WAC 173-303-320 and must be based on the potential for the liner (base) to crack or otherwise deteriorate under the conditions of operation;~~

~~(iv) The liner must be of sufficient strength and thickness to prevent failure due to puncture, cracking, tearing, or other physical damage from equipment used to place waste in or on the pile or to clean and expose the liner surface for inspection; and~~

~~(v) The pile must have a leachate collection and removal system above the liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.~~

~~(b) If deterioration, cracking, or other condition is identified that is causing or could cause a leak, the owner or operator must:~~

~~(i) Notify the department of the condition in writing within seven days after detecting the condition; and~~

~~(ii)(A) Repair or replace the liner (base) and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the liner (base) has been repaired and leakage will not occur; or~~

~~(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been defined in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the period of time specified in the permit.~~

~~(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.~~)) Response actions.

(a) The owner or operator of waste pile units subject to subsection (2)(j) or (k) of this section must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in (b) of this subsection.

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(i) Notify the department in writing of the exceedance within seven days of the determination;

(ii) Submit a preliminary written assessment to the department within fourteen days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(iii) Determine to the extent practicable the location, size, and cause of any leak;

(iv) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(v) Determine any other short-term and long-term actions to be taken to mitigate or stop any leaks; and

(vi) Within thirty days after the notification that the action leakage rate has been exceeded, submit to the department the results of the analyses specified in (b) of this subsection and in subsections (3), (4), and (5) of this section, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the department a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in (b) (C), (D), and (E) of this subsection, the owner or operator must:

(i)(A) Assess the source of liquids and amounts of liquids by source;

(B) Conduct a fingerprint, dangerous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(C) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(ii) Document why such assessments are not needed.

(5) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of piles exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) ((~~The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;~~ ~~(iii)~~)) Proper functioning of wind dispersal control systems; and

((~~(iv)~~)) (iii) The presence of leachate in and proper functioning of leachate collection and removal systems, where present.

(c) An owner or operator required to have a leak detection system under subsection (2)(j) of this section must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(6) Containment system repairs—Contingency plans.

(a) Whenever there is any indication of a possible failure of the containment system, that system must be inspected in accordance with the provisions of the containment system evaluation and repair plan required by (d) of this subsection. Indications of possible failure of the containment system include liquid detected in the leachate detection system, evidence of leakage or the potential for leakage in the base, erosion of the base, or apparent or potential deterioration of the liner(s) based on observation or test samples of the liner materials.

(b) Whenever there is a positive indication of a failure of the containment system, the waste pile must be removed from service. Indications of positive failure of the containment system include waste detected in the leachate detection system, or a breach (e.g., a hole, tear, crack, or separation) in the base.

(c) If the waste pile must be removed from service as required by (b) of this subsection, the owner or operator must:

(i) Immediately stop adding wastes to the pile;

(ii) Immediately contain any leakage which has occurred or is occurring;

(iii) Immediately cause the leak to be stopped; and

(iv) If the leak cannot be stopped by any other means, remove the waste from the base.

(d) As part of the contingency plan required in WAC 173-303-350, the owner or operator must specify:

(i) A procedure for complying with the requirements of (c) of this subsection; and

(ii) A containment system evaluation and repair plan describing: Testing and monitoring techniques; procedures to be followed to evaluate the integrity of the containment system in the event of a possible failure; a schedule of actions to be taken in the event of a possible failure; and a description of the repair techniques and materials (and their availability) to be used in the event of leakage due to containment system failure or deterioration which does not require the waste pile to be removed from service. For EHW piles, the owner or operator must submit with his permit application a statement signed by an independent, qualified registered professional engineer of the basis on which the evaluation and repair plan has been established.

(e) No waste pile that has been removed from service pursuant to (b) of this subsection, may be restored to service unless:

(i) The containment system has been repaired; and

(ii) The containment system has been certified by a qualified engineer as meeting the design specifications approved in the permit.

(f) A waste pile that has been removed from service pursuant to (b) of this subsection, and will not be repaired, must be closed in accordance with subsection (9) of this section.

(7) Special requirements for ignitable or reactive waste. Ignitable or reactive waste must not be placed in a waste pile, unless the waste and waste pile satisfy all applicable requirements of WAC 173-303-140 (2)(a), and:

(a) Addition of the waste to an existing pile results in the waste or mixture no longer meeting the definition of ignitable or reactive waste under WAC 173-303-090, and complies with WAC 173-303-395 (1)(b); or

(b)(i) The waste is managed in such a way that it is protected from any material or conditions which may cause it to ignite or react; and

(ii) The generator complies with WAC 173-303-395 (1)(d).

(8) Special requirements for incompatible wastes.

(a) Incompatible wastes, or incompatible wastes and materials must not be placed in the same pile, unless WAC 173-303-395 (1)(b) is complied with.

(b) A pile of dangerous waste that is incompatible with any waste or other material stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials, or protected from them by means of a dike, berm, wall, or other device. Piles of incompatible wastes must not be served by the same containment system.

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(c) Dangerous waste must not be piled on the same base where incompatible wastes or materials were previously piled, unless the base has been decontaminated sufficiently to ensure compliance with WAC 173-303-395 (1)(b).

(9) Closure and postclosure care.

(a) At closure, the owner or operator must remove or decontaminate all dangerous waste, waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them in accordance with this chapter.

(b) If, after removing or decontaminating all residues and making all reasonable efforts regarding removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated (except that no EHW may ever be left in place), he must close the facility and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills, WAC 173-303-665(6).

(c)(i) The owner or operator of a waste pile that does not comply with the liner requirements of subsection (2)(a)(i) of this section, and is not exempt from them in accordance with subsection (1)(c) or (2)(d) of this section, must:

(A) Include in the closure plan for the pile under WAC 173-303-610(3) both a plan for complying with (a) of this subsection, and a contingent plan for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent postclosure plan under WAC 173-303-610(8) for complying with (b) of this subsection, in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-620 (3) and (5) for closure and postclosure care of a pile must include the cost of complying with the contingent closure plan and the contingent postclosure plan but are not required to include the cost of expected closure under (a) of this subsection.

(10) Special requirements for dangerous wastes F020, F021, F022, F023, F026, and F027.

(a) Dangerous wastes F020, F021, F022, F023, F026, and F027 must not be placed in waste piles that are not enclosed (as defined in subsection (1)(c) of this section) unless the owner or operator operates the waste pile in accordance with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this chapter. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring techniques.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary in order to reduce the possibility of migration of these wastes to ground water, to surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order DE 83-36, filed 1/5/88, effective 2/5/88)

WAC 173-303-665 Landfills. (1) Applicability. The regulations in this section apply to owners and operators of facilities that dispose of dangerous waste in landfills, except as WAC 173-303-600 provides otherwise. No landfill ((~~shall~~)) will be permitted to dispose of EHW, except for the Hanford facility under WAC 173-303-700.

(2) Design and operating requirements.

(a) ((~~A~~)) Any landfill that is not covered by (h) of this subsection must have a liner system for all portions of the landfill (except for an existing portion of a landfill). The liner system must have:

(i) A liner that is designed, constructed, and installed to prevent any migration of wastes out of the landfill to the adjacent subsurface soil or ground water or surface water at anytime during the active life (including the closure period) of the landfill. The liner must be constructed of materials that prevent wastes from passing into the liner during the active life of the facility. The owner or operator must submit an engineering report with his permit application under WAC 173-303-806(4) stating the basis for selecting the liner(s). The report must be certified by a licensed professional engineer. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation;

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, or uplift; and

(C) Installed to cover all surrounding earth likely to be in contact with the waste or leachate; and

(ii) A leachate collection and removal system immediately above the liner that is designed, constructed, maintained, and operated to collect and remove leachate from the landfill. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed 30 cm (one foot). The leachate collection and removal system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the landfill and the leachate expected to be generated; and

(II) Of sufficient strength and thickness to prevent failure under the pressures exerted by overlying wastes, waste cover materials, and by any equipment used at the landfill; and

(B) Designed and operated to function without clogging through the scheduled closure of the landfill.

(b) The owner or operator will be exempted from the requirements of (a) of this subsection, if the department finds, based on a demonstration by the owner or operator, that alternative design and operating practices, together with

location characteristics, will prevent the migration of any dangerous constituents into the ground water or surface water at any future time. In deciding whether to grant an exemption, the department will consider:

(i) The nature and quantity of the wastes;

(ii) The proposed alternate design and operation;

(iii) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the landfill and ground water or surface water; and

(iv) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(c) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from at least a twenty-five-year storm.

(d) The owner or operator must design, construct, operate, and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(e) Collection and holding facilities (e.g., tanks or basins) associated with run-on and run-off control systems must be emptied or otherwise managed expeditiously and in accordance with this chapter after storms to maintain design capacity of the system.

(f) If the landfill contains any particulate matter which may be subject to wind dispersal, the owner or operator must cover or otherwise manage the landfill to control wind dispersal.

(g) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.

(h) The owner or operator of each new landfill unit on which construction commences after January 29, 1992, each lateral expansion of a landfill unit on which construction commences after July 29, 1992, and each replacement of an existing landfill unit that commences reuse after July 29, 1992, must install two or more liners and a leachate collection and removal system above and between such liners. "Construction commences" is as defined in WAC 173-303-040 under "existing facility."

(i) The liner system must:

(A) Include a top liner designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into such liner during the active life and post-closure care period; and

(B) Include a composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of dangerous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of dangerous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1×10^{-7} cm/sec.

(C) The liners must comply with (a)(i)(A), (B), and (C) of this subsection.

(ii) The leachate collection and removal system immediately above the top liner must be designed, constructed, operated, and maintained to collect and remove leachate from the landfill during the active life and post-closure care period. The department will specify design and operating conditions in the permit to ensure that the leachate depth over the liner does not exceed twelve inches (30.5 cm). The leachate collection and removal system must comply with (h)(iii) and (iv) of this subsection.

(iii) The leachate collection and removal system between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems, is also a leak detection system. This leak detection system must be capable of detecting, collecting, and removing leaks of dangerous constituents at the earliest practicable time through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period. The requirements for a leak detection system in this subsection are satisfied by installation of a system that is, at a minimum:

(A) Constructed with a bottom slope of one percent or more;

(B) Constructed of granular drainage materials with a hydraulic conductivity of 1×10^{-2} cm/sec or more and a thickness of 12 inches (30.5 cm) or more; or constructed of synthetic or geonet drainage materials with a transmissivity of 3×10^{-5} m^2/sec or more;

(C) Constructed of materials that are chemically resistant to the waste managed in the landfill and the leachate expected to be generated, and of sufficient strength and thickness to prevent collapse under the pressures exerted by overlying wastes, waste cover materials, and equipment used at the landfill;

(D) Designed and operated to minimize clogging during the active life and post-closure care period; and

(E) Constructed with sumps and liquid removal methods (e.g., pumps) of sufficient size to collect and remove liquids from the sump and prevent liquids from backing up into the drainage layer. Each unit must have its own sump(s). The design of each sump and removal system must provide a method for measuring and recording the volume of liquids present in the sump and of liquids removed.

(iv) The owner or operator will collect and remove pumpable liquids in the leak detection system sumps to minimize the head on the bottom liner.

(v) The owner or operator of a leak detection system that is not located completely above the seasonal high water table must demonstrate that the operation of the leak detection system will not be adversely affected by the presence of ground water.

(j) The department may approve alternative design or operating practices to those specified in (h) of this subsection if the owner or operator demonstrates to the department that such design and operating practices, together with location characteristics:

(i) Will prevent the migration of any dangerous constituent into the ground water or surface water at least as effectively as the liners and leachate collection and removal systems specified in (c) of this subsection; and

(ii) Will allow detection of leaks of dangerous constituents through the top liner at least as effectively.

(k) The double liner requirement set forth in (h) of this subsection may be waived by the department for any monofill, if:

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(i) The monofill contains only dangerous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes dangerous for reasons other than the Toxicity Characteristic in WAC 173-303-090(8), with dangerous waste numbers D004 through D017 or the toxicity criteria at WAC 173-303-100(5); and

(ii)(A) The monofill has at least one liner for which there is no evidence that such liner is leaking;

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in 40 CFR section 144.3); and

(C) The monofill is in compliance with generally applicable ground water monitoring requirements for facilities with permits under RCRA 3005(c); or

(D) The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any dangerous constituent into ground water or surface water at any future time.

(l) The owner or operator of any replacement landfill unit is exempt from (h) of this subsection if:

(i) The existing unit was constructed in compliance with the design standards of section 3004(o)(1)(A)(i) and (o)(5) of the Resource Conservation and Recovery Act; and

(ii) There is no reason to believe that the liner is not functioning as designed.

(3) ((~~Double-lined landfills; exemption from WAC 173-303-645, ground water protection requirements.~~

~~(a) The owner or operator of a double-lined landfill is not subject to regulation under WAC 173-303-645 if the following conditions are met:~~

~~(i) The landfill (including its underlying liners) must be located entirely above the seasonal high water table;~~

~~(ii) The landfill must be underlain by two liners which are designed and constructed in a manner to prevent the migration of liquids into or out of the space between the liners. Both liners must meet the specifications of subsection (2)(a)(i) of this section;~~

~~(iii) A leak detection system must be designed, constructed, maintained, and operated between the liners to detect any migration of liquid into the space between the liners; and~~

~~(iv) The landfill must have a leachate collection and removal system above the top liner that is designed, constructed, maintained, and operated in accordance with subsection (2)(a)(ii) of this section.~~

~~(b) If liquid leaks into the leak detection system, the owner or operator must:~~

~~(i) Notify the department of the leak in writing within seven days after detecting the leak; and~~

~~(ii)(A) Within the time period specified in the permit, remove accumulated liquid, repair or replace the liner which is leaking to prevent the migration of liquids through the liner, and obtain a certification from a qualified engineer that, to the best of his knowledge and opinion, the leak has been stopped; or~~

~~(B) If a detection monitoring program pursuant to WAC 173-303-645(9) has already been established in the permit (to be complied with only if a leak occurs), begin to comply with that program and any other applicable requirements of WAC 173-303-645 within the time period specified in the permit.~~

~~(c) The department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this subsection are satisfied.~~)) Reserve.

(4) Monitoring and inspection.

(a) During construction or installation, liners (except in the case of existing portions of landfills exempt from subsection (2)(a) of this section), and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(i) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(ii) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(b) While a landfill is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;

(ii) ((~~The presence of liquids in leak detection systems, where installed to comply with subsection (3) of this section;~~

~~(iii)~~)) Proper functioning of wind dispersal control systems; and

((~~(iv)~~)) (iii) The presence of leachate in and proper functioning of leachate collection and removal systems.

(c)(i) An owner or operator required to have a leak detection system under subsection (2)(h) or (j) of this section must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(ii) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semiannually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(iii) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the department based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

(5) Surveying and recordkeeping. The owner or operator of a landfill must maintain the following items in the operating record required under WAC 173-303-380:

(a) On a map, the exact location and dimensions, including depth, of each cell with respect to permanently surveyed benchmarks; and

(b) The contents of each cell and the approximate location of each dangerous waste type within each cell.

(6) Closure and postclosure care.

(a) At final closure of the landfill or upon closure of any cell, the owner or operator must cover the landfill or cell with a final cover designed and constructed to:

(i) Provide long-term minimization of migration of liquids through the closed landfill;

(ii) Function with minimum maintenance;

(iii) Promote drainage and minimize erosion or abrasion of the cover;

(iv) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(v) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) After final closure, the owner or operator must comply with all postclosure requirements contained in WAC 173-303-610 (7), (8), (9), and (10) including maintenance and monitoring throughout the postclosure care period. The owner or operator must:

(i) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(ii) Maintain and monitor the leak detection system in accordance with subsections ((~~(3)~~)) (2)(h) and (4)(c) of this section, where such a system is present between double liner systems;

(iii) Continue to operate the leachate collection and removal system until leachate is no longer detected;

(iv) Maintain and monitor the ground water monitoring system and comply with all other applicable requirements of WAC 173-303-645;

(v) Prevent run-on and run-off from eroding or otherwise damaging the final cover; and

(vi) Protect and maintain surveyed benchmarks used in complying with subsection (5) of this section.

(c) ((~~During the postclosure care period, if liquid leaks into a leak detection system installed under subsection (3) of this section, the owner or operator must notify the department of the leak in writing within seven days after detecting the leak. The department will modify the permit to require compliance with the requirements of WAC 173-303-645.~~)) Reserve.

(7) Special requirements for incompatible wastes. Incompatible wastes, or incompatible wastes and materials must not be placed in the same landfill cell, unless WAC 173-303-395 (1)(b) is complied with.

(8) Action leakage rate.

(a) The department will approve an action leakage rate for surface impoundment units subject to subsection (2)(h) or (j) of this section. The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

(b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under subsection (2)(h) of this section, to an average daily flow rate (gallons per acre per day) for each sump. Unless the department approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and monthly during the post-closure care period when monthly monitoring is required under subsection (9) of this section.

(9) Response actions.

(a) The owner or operator of landfill units subject to subsection (2)(h) or (j) of this section must have an approved response action plan before receipt of waste. The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in (b) of this subsection.

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

(i) Notify the department in writing of the exceedance within seven days of the determination;

(ii) Submit a preliminary written assessment to the department within fourteen days of the determination, as to the amount of liquids, likely sources of liquids, possible location, size, and cause of any leaks, and short-term actions taken and planned;

(iii) Determine to the extent practicable the location, size, and cause of any leak;

(iv) Determine whether waste receipt should cease or be curtailed, whether any waste should be removed from the unit for inspection, repairs, or controls, and whether or not the unit should be closed;

(v) Determine any other short-term and long-term actions to be taken to mitigate or stop any leaks; and

(vi) Within thirty days after the notification that the action leakage rate has been exceeded, submit to the department the results of the analyses specified in (b)(iii), (iv), and (v) of this subsection, the results of actions taken, and actions planned. Monthly thereafter, as long as the flow rate in the leak detection system exceeds the action leakage rate, the owner or operator must submit to the department a report summarizing the results of any remedial actions taken and actions planned.

(c) To make the leak and/or remediation determinations in (b)(iii), (iv), and (v) of this subsection, the owner or operator must:

(i) Assess the source of liquids and amounts of liquids by source;

(ii) Conduct a fingerprint, dangerous constituent, or other analyses of the liquids in the leak detection system to identify the source of liquids and possible location of any leaks, and the hazard and mobility of the liquid; and

(iii) Assess the seriousness of any leaks in terms of potential for escaping into the environment; or

(iv) Document why such assessments are not needed.

(10) Special requirements for ignitable or reactive waste.

(a) Except as provided in subsection (8)(b) of this section, and in WAC 173-303-161, ignitable or reactive

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waste must not be placed in a landfill, unless the waste and landfill meet all applicable requirements for owners and operators of dangerous waste treatment, storage and disposal facilities contained in this chapter, and:

(i) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under WAC 173-303-090 (5) or (7); and

(ii) WAC 173-303-395(1) is complied with.

(b) Except for prohibited wastes which remain subject to treatment standards in WAC 173-303-140 (2)(a), ignitable wastes in containers may be landfilled without meeting the requirements of (a) of this subsection, provided that the wastes are disposed of in such a way that they are protected from any material or conditions which may cause them to ignite. At a minimum, ignitable wastes must be disposed of in nonleaking containers which are carefully handled and placed so as to avoid heat, sparks, rupture, or any other condition that might cause ignition of the wastes; must be covered daily with soil or other noncombustible material to minimize the potential for ignition of the wastes; and must not be disposed of in cells that contain or will contain other wastes which may generate heat sufficient to cause ignition of the waste.

(11) Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(a) Hazardous wastes F020, F021, F022, F023, F026, and F027 must not be placed in landfills unless the owner or operator operates the landfill in accord with a management plan for these wastes that is approved by the department pursuant to the standards set out in this subsection, and in accord with all other applicable requirements of this section. The factors to be considered are:

(i) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through the soil or to volatilize or escape into the atmosphere;

(ii) The attenuative properties of underlying and surrounding soils or other materials;

(iii) The mobilizing properties of other materials co-disposed with these wastes; and

(iv) The effectiveness of additional treatment, design, or monitoring requirements.

(b) The department may determine that additional design, operating, and monitoring requirements are necessary for landfills managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-670 Incinerators. (1) Applicability.

(a) Except as WAC 173-303-600 provides otherwise, the regulations in this section apply to owners and operators of facilities that incinerate dangerous waste and to owners and operators who burn dangerous waste in boilers or industrial furnaces in order to destroy them, or who burn dangerous waste in boilers or in industrial furnaces for any recycling purpose and elect to be regulated under this section.

(b) The department may, in establishing permit conditions, exempt the facility from all requirements of this section except subsection (2) of this section, waste analysis, and subsection (8) of this section, closure, if the department finds, after an examination of the waste analysis included with Part B of the owner/operator's permit application, that the waste to be burned:

(i)(A) Is either listed as a dangerous waste in WAC 173-303-080 only because it is ignitable or, that the waste is designated only as an ignitable dangerous waste under WAC 173-303-090; or

(B) Is either listed in WAC 173-303-080 or is designated under WAC 173-303-090 solely because it is reactive for the characteristics described in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii) and (viii), and will not be burned when other dangerous wastes are present in the combustion zone; and

(ii) Contains none of the dangerous constituents listed in WAC 173-303-9905 above significant concentration limits; and

(iii) Is not designated by the dangerous waste criteria of WAC 173-303-100.

(c) The owner or operator of an incinerator may conduct trial burns, subject only to the requirements of WAC 173-303-807, trial burn permits.

(2) Waste analysis.

(a) As a portion of a trial burn plan required by WAC 173-303-807, or with Part B of his permit application, the owner or operator must have included an analysis of his waste feed sufficient to provide all information required by WAC 173-303-807 or 173-303-806 (3) and (4).

(b) Throughout normal operation the owner or operator must conduct sufficient waste analysis to verify that waste feed to the incinerator is within the physical and chemical composition limits specified in his permit (under subsection (6)(b) of this section).

(3) Designation of principal organic dangerous constituents and dangerous combustion byproducts. Principal organic dangerous constituents (PODCs) and dangerous combustion byproducts must be treated to the extent required by the performance standards specified in subsection (4) of this section. For each waste feed to be burned, one or more PODCs and dangerous combustion byproducts will be specified in the facility's permit from among those constituents listed in WAC 173-303-9905 and, to the extent practical, from among those constituents which contribute to the toxicity, persistence, or carcinogenicity of wastes designated under WAC 173-303-100. This specification will be based on the degree of difficulty of incineration of the organic constituents of the waste feed and its combustion byproducts and their concentration or mass, considering the results of waste analyses and trial burns or alternative data submitted with Part B of the facility's permit application. Organic constituents or byproducts which represent the greatest degree of difficulty of incineration will be those most likely to be designated as PODCs and dangerous combustion byproducts. Constituents are more likely to be designated as PODCs or dangerous combustion byproducts if they are present in large quantities or concentrations. Trial PODCs will be designated for performance of trial burns in accordance with the procedure specified in WAC 173-303-807 for obtaining trial burn permits. Trial dangerous combustion byproducts may be designated under the same procedures.

(4) Performance standards. An incinerator burning dangerous waste must be designed, constructed, and main-

tained so that, when operated in accordance with operating requirements specified under subsection (6) of this section, it will meet the following performance standards:

(a)(i) Except as provided in (a)(ii) of this subsection, an incinerator burning dangerous waste must achieve a destruction and removal efficiency (DRE) of 99.99 percent for each PODC designated (under subsection (3) of this section) in its permit for each waste feed. DRE is determined for each PODC from the following equation:

$$DRE = \frac{(W_{in} - W_{out}) \times 100\%}{W_{in}}$$

Where:

W_{in} = Mass feed rate of one PODC in the waste stream feeding the incinerator, and

W_{out} = Mass emission rate of the same PODC present in exhaust emissions prior to release to the atmosphere.

(ii) An incinerator burning dangerous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic dangerous constituent (PODCs) designated (under subsection (3) of this section) in its permit. This performance must be demonstrated on PODCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each PODCs from the equation in subsection (4)(a)(i) of this section. In addition, the owner or operator of the incinerator must notify the department of his intent to incinerate dangerous wastes F020, F021, F022, F023, F026, or F027.

(b) Incinerators burning dangerous waste must destroy dangerous combustion byproducts designated under subsection (3) of this section so that the total mass emission rate of these byproducts emitted from the stack is no more than .01 percent of the total mass feed rate of PODCs fed into the incinerator.

(c)(i) An incinerator burning dangerous waste and producing stack emissions of more than 1.8 kilograms per hour (4 pounds per hour) of hydrogen chloride (HCl) must control HCl emissions such that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or one percent of the HCl in the stack gas prior to entering any pollution control equipment.

(ii) An incinerator burning dangerous waste must not emit particulate matter in excess of 180 milligrams per dry standard cubic meter (0.08 grains per dry standard cubic foot) when corrected for the amount of oxygen in the stack gas according to the formula:

$$Pc = \frac{Pm \times 14}{21-Y}$$

Where Pc is the corrected concentration of particulate matter, Pm is the measured concentration of particulate matter, and Y is the measured concentration of oxygen in the stack gas, using the Orsat method for oxygen analysis of dry flue gas, presented in 40 CFR Part 60, Appendix A (Method 3). This correction procedure is to be used by all dangerous waste incinerators except those operating under conditions of oxygen enrichment. For these facilities, the department will select an appropriate correction procedure to be specified in the facility permit.

(d) The emission standards specified in (c) of this subsection ((~~shall~~)) will be met when no other more stringent standards exist. Where a state or local air pollution control authority has jurisdiction and has more stringent emission standards, an incinerator burning dangerous wastes ((~~shall~~)) will comply with the applicable air pollution control authority's emission standards (including limits based on best available control technology).

(e) For purposes of permit enforcement, compliance with the operating requirements specified in the permit (under subsection (6) of this section), will be regarded as compliance with subsection (4) of this section. However, evidence that compliance with those permit conditions is insufficient to ensure compliance with the performance requirements of subsection (4) of this section, may be evidence justifying modification, revocation, or reissuance of a permit under WAC 173-303-830.

(5) Trial burns and permit modifications.

(a) The owner or operator of a dangerous waste incinerator may burn only wastes specified in his permit and only under operating conditions specified for those wastes under subsection (6) of this section, except:

(i) In approved trial burns under WAC 173-303-807; or

(ii) Under exemptions created by WAC 173-303-670(1).

(b) New dangerous wastes may be burned only after operating conditions have been specified in a trial burn permit or a permit modification has been issued, as applicable. Operating requirements for new wastes may be based on either trial burn results or alternative data included with Part B of a permit application under WAC 173-303-806(4).

(c) The permit for a new dangerous waste incinerator must establish appropriate conditions for each of the applicable requirements of this section, including but not limited to allowable waste feeds and operating conditions necessary to meet the requirements of subsection (6) of this section, sufficient to comply with the following standards:

(i) For the period beginning with initial introduction of dangerous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in (c)(ii) of this subsection, not to exceed a duration of seven hundred twenty hours operating time for treatment of dangerous waste. The operating requirements must be those most likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment. The department may extend the duration of this period once for up to seven hundred twenty additional hours when good cause for the extension is demonstrated by the applicant;

(ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate compliance with the performance standards of subsection (4) of this section, and must be in accordance with the approved trial burn plan;

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the department, the operating requirements must be those most

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likely to ensure compliance with the performance standards of subsection (4) of this section, based on the department's engineering judgment;

(iv) For the remaining duration of the permit, the operating requirements must be those demonstrated, in a trial burn or by alternative data specified in WAC 173-303-806 (4)(f)(iii)(G), as sufficient to ensure compliance with the performance standards of subsection (4) of this section.

(6) Operating requirements.

(a) An incinerator must be operated in accordance with operating requirements specified in the permit. These will be specified on a case-by-case basis as those demonstrated (in a trial burn or in alternative data as specified in subsection (5)(b) of this section and included with Part B of a facility's permit application) to be sufficient to comply with the performance standards of subsection (4) of this section.

(b) Each set of operating requirements will specify the composition of the waste feed (including acceptable variations in the physical or chemical properties of the waste feed which will not affect compliance with the performance requirement of subsection (4) of this section) to which the operating requirements apply. For each such waste feed, the permit will specify acceptable operating limits including the following conditions:

(i) Carbon monoxide (CO) level in the stack exhaust gas;

(ii) Waste feed rate;

(iii) Combustion temperature;

(iv) An appropriate indicator of combustion gas velocity;

(v) Allowable variations in incinerator system design or operating procedures; and

(vi) Such other operating requirements as are necessary to ensure that the performance standards of subsection (4) of this section are met.

(c) During startup and shutdown of an incinerator, dangerous waste (except waste exempted in accordance with subsection (1)(b) of this section) must not be fed into the incinerator unless the incinerator is operating within the conditions of operation (temperature, air feed rate, etc.) specified in the permit.

(d) Fugitive emissions from the combustion zone must be controlled by:

(i) Keeping the combustion zone totally sealed against fugitive emissions;

(ii) Maintaining a combustion zone pressure lower than atmospheric pressure; or

(iii) An alternate means of control demonstrated (with Part B of the permit application) to provide fugitive emissions control equivalent to maintenance of combustion zone pressure lower than atmospheric pressure.

(e) An incinerator must be operated with a functioning system to automatically cut off waste feed to the incinerator when operating conditions deviate from limits established under (a) of this subsection.

(f) An incinerator must cease operation when changes in waste feed, incinerator design, or operating conditions exceed limits designated in its permit.

(7) Monitoring and inspections.

(a) The owner or operator must conduct, as a minimum, the following monitoring while incinerating dangerous waste:

(i) Combustion temperature, waste feed rate, and the indicator of combustion gas velocity specified in the facility permit must be monitored on a continuous basis;

(ii) Carbon monoxide (CO) must be monitored on a continuous basis at a point in the incinerator downstream of the combustion zone and prior to release to the atmosphere; and

(iii) As required by the department, sampling and analysis of the waste and exhaust emissions must be conducted to verify that the operating requirements established in the permit achieve the performance standards of subsection (4) of this section.

(b) The incinerator and associated equipment (pumps, valves, conveyors, pipes, etc.) must be completely inspected at least daily for leaks, spills, fugitive emissions, and signs of tampering. All emergency waste feed cutoff controls and system alarms must be tested at least weekly to verify proper operation, unless the owner or operator demonstrates to the department that weekly inspections will unduly restrict or upset operations and that less frequent inspection will be adequate. At a minimum, emergency cutoff and alarm systems must be tested at least monthly.

(c) This monitoring and inspection data must be recorded and the records must be placed in the operating log required by WAC 173-303-380(1).

(8) Closure. At closure the owner or operator must remove all dangerous waste and dangerous waste residues (including, but not limited to, ash, scrubber waters, and scrubber sludges) from the incinerator site. Remaining equipment, bases, liners, soil, and debris containing or contaminated with dangerous waste or waste residues must be decontaminated or removed.

NEW SECTION

WAC 173-303-675 Drip pads. (1) Applicability.

(a) The requirements of this section apply to owners and operators of facilities that use new or existing drip pads to convey treated wood drippage, precipitation, and/or surface water run-off to an associated collection system. Existing drip pads are those constructed before December 6, 1990, and those for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 6, 1990. All other drip pads are new drip pads. The requirement in subsection (4)(b)(iii) of this section to install a leak collection system applies only to those drip pads that are constructed after December 24, 1992, except for those constructed after December 24, 1992, for which the owner or operator has a design and has entered into binding financial or other agreements for construction prior to December 24, 1992.

(b) The owner or operator of any drip pad that is inside or under a structure that provides protection from precipitation so that neither run-off nor run-on is generated is not subject to regulation under subsection (3)(e) or (f) of this section, as appropriate.

(c) The requirements of this section are not applicable to the management of infrequent and incidental drippage in storage yards provided that: The owner or operator maintains and complies with a written contingency plan that describes how the owner or operator will respond immediately to the discharge of such infrequent and incidental

drippage. At a minimum, the contingency plan must describe how the owner or operator will do the following:

(i) Clean up the drippage;

(ii) Document the cleanup of the drippage;

(iii) Retain documents regarding cleanup for three years; and

(iv) Manage the contaminated media in a manner consistent with federal regulations.

(2) Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in subsection (1) of this section, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this section, except the requirements for liners and leak detection systems of subsection (4)(b) of this section. No later than the effective date of this rule, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all of the standards of subsection (4) of this section are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of subsection (4) of this section, except the standards for liners and leak detection systems, specified in subsection (4)(b) of this section.

(b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of subsection (4)(b) of this section, and submit the plan to the department no later than two years before the date that all repairs, upgrades, and modifications are complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of subsection (4) of this section. The plan must be reviewed and certified by an independent qualified registered professional engineer.

(c) Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the department, the as-built drawings for the drip pad together with a certification by an independent qualified registered professional engineer attesting that the drip pad conforms to the drawings.

(d) If the drip pad is found to be leaking or unfit for use, the owner or operator must comply with the provisions of subsection (4)(m) of this section or close the drip pad in accordance with subsection (6) of this section.

(3) Design and installation of new drip pads.

Owners and operators of new drip pads must ensure that the pads are designed, installed, and operated in accordance with one of the following:

(a) All of the requirements of subsections (4) of this section (except subsection (4)(a)(iv)), (5) and (6) of this section; or

(b) All of the requirements of subsections (4) of this section (except subsection (4)(b)), (5) and (6) of this section.

(4) Design and operating requirements.

(a) Drip pads must:

(i) Be constructed of noneartherm materials, excluding wood and nonstructurally supported asphalt:

(ii) Be sloped to free-drain treated wood drippage, rain and other waters, or solutions of drippage and water or other wastes to the associated collection system;

(iii) Have a curb or berm around the perimeter;

(iv)(A) Have a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second, e.g., existing concrete drip pads must be sealed, coated, or covered with a surface material with a hydraulic conductivity of less than or equal to 1×10^{-7} centimeters per second such that the entire surface where drippage occurs or may run across is capable of containing such drippage and mixtures of drippage and precipitation, materials, or other wastes while being routed to an associated collection system. This surface material must be maintained free of cracks and gaps that could adversely affect its hydraulic conductivity, and the material must be chemically compatible with the preservatives that contact the drip pad. The requirements of this provision apply only to existing drip pads and those drip pads for which the owner or operator elects to comply with subsection (3)(a) of this section instead of subsection (3)(b) of this section.

(B) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent, qualified registered professional engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this subsection, except for (b) of this subsection.

(v) Be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of daily perations, e.g., variable and moving loads such as vehicle traffic, movement of wood, etc.

Note: The department will generally consider applicable standards established by professional organizations generally recognized by the industry such as the American Concrete Institute (ACI) or the American Society of Testing and Materials (ASTM) in judging the structural integrity requirement of this subsection.

(b) If an owner/operator elects to comply with subsection (3)(b) of this section instead of subsection (3)(a) of this section, the drip pad must have:

(i) A synthetic liner installed below the drip pad that is designed, constructed, and installed to prevent leakage from the drip pad into the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the drip pad. The liner must be constructed of materials that will prevent waste from being absorbed into the liner and to prevent releases into the adjacent subsurface soil or ground water or surface water during the active life of the facility. The liner must be:

(A) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or drip pad leakage to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from vehicular traffic on the drip pad);

(B) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression or uplift; and

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(C) Installed to cover all surrounding earth that could come in contact with the waste or leakage; and

(ii) A leakage detection system immediately above the liner that is designed, constructed, maintained and operated to detect leakage from the drip pad. The leakage detection system must be:

(A) Constructed of materials that are:

(I) Chemically resistant to the waste managed in the drip pad and the leakage that might be generated; and

(II) Of sufficient strength and thickness to prevent collapse under the pressures exerted by overlaying materials and by any equipment used at the drip pad;

(B) Designed and operated to function without clogging through the scheduled closure of the drip pad; and

(C) Designed so that it will detect the failure of the drip pad or the presence of a release of dangerous waste or accumulated liquid at the earliest practicable time.

(iii) A leakage collection system immediately above the liner that is designed, constructed, maintained and operated to collect leakage from the drip pad such that it can be removed from below the drip pad. The date, time, and quantity of any leakage collected in this system and removed must be documented in the operating log.

(c) Drip pads must be maintained such that they remain free of cracks, gaps, corrosion, or other deterioration that could cause dangerous waste to be released from the drip pad.

Note: See subsection (4)(m) of this section for remedial action required if deterioration or leakage is detected.

(d) The drip pad and associated collection system must be designed and operated to convey, drain, and collect liquid resulting from drippage or precipitation in order to prevent run-off.

(e) Unless protected by a structure, as described in subsection (1)(b) of this section, the owner or operator must design, construct, operate and maintain a run-on control system capable of preventing flow onto the drip pad during peak discharge from at least a twenty-four-hour, twenty-five-year storm, unless the system has sufficient excess capacity to contain any run-off that might enter the system.

(f) Unless protected by a structure or cover as described in subsection (1)(b) of this section, the owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a twenty-four-hour, twenty-five-year storm.

(g) The drip pad must be evaluated to determine that it meets the requirements of (a) through (f) of this subsection and the owner or operator must obtain a statement from an independent, qualified registered professional engineer certifying that the drip pad design meets the requirements of this section.

(h) Drippage and accumulated precipitation must be removed from the associated collection system as necessary to prevent overflow onto the drip pad.

(i) The drip pad surface must be cleaned thoroughly in a manner and frequency such that accumulated residues of dangerous waste or other materials are removed, with residues being properly managed as dangerous waste, so as to allow weekly inspections of the entire drip pad surface without interference or hindrance from accumulated residues of dangerous waste or other materials on the drip pad. The owner or operator must document the date and time of each cleaning and the cleaning procedure used in the facility's operating log. The owner/operator must determine if the residues are dangerous under WAC 173-303-070 and, if so, must manage them under this chapter.

(j) Drip pads must be operated and maintained in a manner to minimize tracking of dangerous waste or dangerous waste constituents off the drip pad as a result of activities by personnel or equipment.

(k) After being removed from the treatment vessel, treated wood from pressure and nonpressure processes must be held on the drip pad until drippage has ceased. The owner or operator must maintain records sufficient to document that all treated wood is held on the drip pad following treatment in accordance with this requirement.

(l) Collection and holding units associated with run-on and run-off control systems must be emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system.

(m) Throughout the active life of the drip pad and as specified in the permit, if the owner or operator detects a condition that may have caused or has caused a release of dangerous waste, the condition must be repaired within a reasonably prompt period of time following discovery, in accordance with the following procedures:

(i) Upon detection of a condition that may have caused or has caused a release of dangerous waste (e.g., upon detection of leakage in the leak detection system), the owner or operator must:

(A) Enter a record of the discovery in the facility operating log;

(B) Immediately remove the portion of the drip pad affected by the condition from service;

(C) Determine what steps must be taken to repair the drip pad and clean up any leakage from below the drip pad, and establish a schedule for accomplishing the repairs;

(D) Within twenty-four hours after discovery of the condition, notify the department of the condition and, within ten working days, provide written notice to the department with a description of the steps that will be taken to repair the drip pad and clean up any leakage, and the schedule for accomplishing this work.

(ii) The department will review the information submitted, make a determination regarding whether the pad must be removed from service completely or partially until repairs and clean up are complete and notify the owner or operator of the determination and the underlying rationale in writing.

(iii) Upon completing all repairs and clean up, the owner or operator must notify the department in writing and provide a certification signed by an independent, qualified registered professional engineer, that the repairs and clean up have been completed according to the written plan submitted in accordance with (m)(i)(D) of this subsection.

(n) Should a permit be necessary, the department will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

(o) The owner or operator must maintain, as part of the facility operating log, documentation of past operating and waste handling practices. This must include identification of preservative formulations used in the past, a description of

drippage management practices, and a description of treated wood storage and handling practices.

(5) Inspections.

(a) During construction or installation, liners and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation, liners must be inspected and certified as meeting the requirements of subsection (4) of this section by an independent qualified, registered professional engineer. This certification must be maintained at the facility as part of the facility operating record. After installation, liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

(b) While a drip pad is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(i) Deterioration, malfunctions or improper operation of run-on and run-off control systems;

(ii) The presence of leakage in and proper functioning of leak detection system;

(iii) Deterioration or cracking of the drip pad surface.

Note: See subsection (4)(m) of this section for remedial action required if deterioration or leakage is detected.

(6) Closure.

(a) At closure, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (pad, liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leakage, and manage them as dangerous waste.

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in (a) of this subsection, the owner or operator finds that not all contaminated subsoils can be practicably removed or decontaminated, he must close the facility and perform post-closure care in accordance with closure and post-closure care requirements that apply to landfills (WAC 173-303-665(6)). For permitted units, the requirement to have a permit continues throughout the post-closure period. In addition, for the purpose of closure, post-closure, and financial responsibility, such a drip pad is then considered to be landfill, and the owner or operator must meet all of the requirements for landfills specified in WAC 173-303-610 and 173-303-620.

(c)(i) The owner or operator of an existing drip pad, as defined in subsection (1) of this section, that does not comply with the liner requirements of subsection (4)(b)(i) of this section must:

(A) Include in the closure plan for the drip pad under WAC 173-303-610(3), both a plan for complying with (a) of this subsection and a contingent plan for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure; and

(B) Prepare a contingent post-closure plan under WAC 173-303-610(8) for complying with (b) of this subsection in case not all contaminated subsoils can be practicably removed at closure.

(ii) The cost estimates calculated under WAC 173-303-610 and 173-303-620 for closure and post-closure care of a drip pad subject to this subsection must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under (a) of this subsection.

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.

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AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-680 Miscellaneous units. (1) Applicability. The requirements of this section apply to owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units, except as WAC 173-303-600 provides otherwise.

(2) Environmental performance standards. A miscellaneous unit must be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of dangerous waste or dangerous constituents from the unit. Permit terms and provisions ((~~shall~~)) will include those requirements in WAC 173-303-630 through 173-303-670, WAC 173-303-800 through 173-303-806, and 40 CFR Part 146 that are appropriate for the miscellaneous units being permitted. Protection of human health and the environment includes, but is not limited to:

(a) Prevention of any releases that may have adverse effects on human health or the environment due to migration of wastes constitutents in the ground water or subsurface environment, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for migration through soil, liners, or other containing structures;

(ii) The hydrologic and geologic characteristics of the unit and the surrounding area;

(iii) The existing quality of ground water, including other sources of contamination and their cumulative impact on the ground water;

(iv) The quantity and direction of ground water flow;

(v) The proximity to and withdrawal rates of current and potential ground water users;

(vi) The patterns of land use in the region;

(vii) The potential for deposition or migration of waste constituents into subsurface physical structures, and into the root zone of food-chain crops and other vegetation;

(viii) The potential for health risks caused by human exposure to waste constituents; and

(ix) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(b) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in surface water, or wetlands or on the soil surface considering:

(i) The volume and physical and chemical characteristics of the waste in the unit;

(ii) The effectiveness and reliability of containing, confining, and collecting systems and structures in preventing migration;

(iii) The hydrologic characteristics of the unit and the surrounding area, including the topography of the land around the unit;

(iv) The patterns of precipitation in the region;

(v) The quantity, quality, and direction of ground water flow;

(vi) The proximity of the unit to surface waters;

(vii) The current and potential uses of nearby surface waters and any water quality standards established for those surface waters;

(viii) The existing quality of surface waters and surface soils, including other sources of contamination and their cumulative impact on surface waters and surface soils;

(ix) The patterns of land use in the region;

(x) The potential for health risks caused by human exposure to waste constitutents; and

(xi) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(c) Prevention of any release that may have adverse effects on human health or the environment due to migration of waste constituents in the air, considering:

(i) The volume and physical and chemical characteristics of the waste in the unit, including its potential for the emission and dispersal of gases, aerosols and particulates;

(ii) The effectiveness and reliability of systems and structures to reduce or prevent emissions of dangerous constituents to the air;

(iii) The operating characteristics of the unit;

(iv) The atmospheric, meteorologic, and topographic characteristics of the unit and the surrounding area;

(v) The existing quality of the air, including other sources of contamination and their cumulative impact on the air;

(vi) The potential for health risks caused by human exposure to waste constituents; and

(vii) The potential for damage to domestic animals, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents.

(3) Monitoring, analysis, inspection, response, reporting, and corrective action. Monitoring, testing, analytical data, inspections, response, and reporting procedures and frequencies must ensure compliance with subsection (2) of this section, WAC 173-303-320, 173-303-340(1), ((~~173-303-380(3),~~)) 173-303-390 ((~~(1) and (3)~~)), and 173-303-646(2) as well as meet any additional requirements needed to protect human health and the environment as specified in the permit.

(4) Postclosure care. A miscellaneous unit that is a disposal unit must be maintained in a manner that complied with subsection (2) of this section during the postclosure care period. In addition, if a treatment or storage unit has contaminated soils or ground water that cannot be completely removed or decontaminated during closure, then that unit must also meet the requirements of subsection (2) of this section during postclosure care. The postclosure plan under WAC 173-303-610(8) must specify the procedures that will be used to satisfy this requirement.

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.

NEW SECTION

WAC 173-303-690 Air emission standards for process vents. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except for 40 CFR 264.1034(d) and (e), this section applies to process vents associated with distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations that manage hazardous wastes with organic concentrations of at least 10-ppmw, if these operations are conducted in:

(i) Units that are subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) Hazardous waste recycling units that are located on hazardous waste management facilities otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840.

(c) If the owner or operator of process vents subject to the requirements of 40 CFR 264.1032 through 264.1036 has received a permit under section 3005 of RCRA prior to December 21, 1990, the requirements of 264.1032 through 264.1036 must be incorporated when the permit is reissued under 40 CFR 124.15 or reviewed under WAC 173-303-806(11).

(2) 40 CFR 264.1031 through 1036 (Subpart AA) is incorporated by reference.

Note: Where the incorporated language refers to 264.1030, refer to subsection (1) of this section. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

NEW SECTION

WAC 173-303-691 Air emission standards for equipment leaks. (1) Applicability.

(a) The regulations in this section apply to owners and operators of facilities that treat, store, or dispose of hazardous wastes.

(b) Except as provided in 40 CFR 1064(k), this section applies to equipment that contains or contacts hazardous wastes with organic concentrations of at lest 10 percent by weight that are managed in:

(i) Units that are subject to the permitting requirements of WAC 173-303-800 through 173-303-840; or

(ii) Hazardous waste recycling units that are located on hazardous waste management facilities otherwise subject to the permitting requirements of WAC 173-303-800 through 173-303-840.

(c) If the owner or operator of equipment subject to the requirements of 40 CFR 264.1052 through 264.1065 has received a permit under section 3005 of RCRA prior to December 21, 1990, the requirements of 40 CFR 264.1052 through 264.1065 must be incorporated when the permit is reissued under 40 CFR 124.15 or reviewed under WAC 173-303-806(11).

(d) Each piece of equipment to which this section applies will be marked in such a manner that it can be distinguished readily from other pieces of equipment.

(e) Equipment that is in vacuum service is excluded from the requirements of 40 CFR 264.1052 to 264.1060 if it is identified as required in 40 CFR 264.1064(g)(5).

(2) 40 CFR 264.1051 through 1065 (Subpart BB) is incorporated by reference.

Note: Where the incorporated language refers to 264.1050, refer to WAC 173-303-691. Where the incorporated language refers to Part 270, refer to WAC 173-303-800 through 173-303-840.

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 173-303-695 Containment buildings. The requirements for containment buildings at 40 CFR Part 264 Subpart DD are incorporated by reference. The words "regional administrator" will mean "department" and "hazardous waste" will mean "dangerous waste."

AMENDATORY SECTION (Amending Order DE 83-36, filed 4/18/84)

WAC 173-303-700 Requirements for the Washington state extremely hazardous waste management facility at Hanford. (1) Purpose and applicability. The purpose of this section is to set forth the requirements for the Washington EHW management (EHWM) facility located at Hanford, Washington. It is the only facility within the state that is allowed under law to dispose of EHW (RCW 70.105.050).

(2) Waste acceptance at Hanford.

(a) The state operator ((~~shall~~)) will accept EHW for treatment, storage, or disposal when:

(i) The waste has been specified in the state operator's permit as not requiring prior approval from the department and the state operator sends a copy of each written request for disposal of waste at the EHWM facility to the department, not later than one week after receiving the request; or

(ii) If the waste has not been specified in the state operator's permit, then the department provides written approval that the waste may be accepted at the EHWM facility. Notices of approval or disapproval ((~~shall~~)) will be provided as soon as possible, but not later than 15 days, after the state operator has notified the department. Written approval from the department is not required in emergencies, as specified; and

(iii) The generator has obtained prior written approval for waste acceptance from the state operator;

(iv) The waste is accompanied by a manifest specified in the generator requirements of WAC 173-303-180, Manifest; and

(v) Waste containers meet the labeling and container condition requirements of WAC 173-303-190.

(b) The state operator may accept DW, as defined in this regulation, for storage, treatment, or disposal when:

(i) All the conditions of EHW acceptance, (a) of this subsection, are met;

(ii) The generator and/or operator shows that no other permitted TSD facility in the state will handle such DW. The generator and/or operator ((~~shall~~)) will refer to:

(A) County or municipal ordinances or solid waste permits forbidding DW disposal at nearby sites;

(B) The EHWM site being the shortest economical haul distance where other remotely located, DW sites may be available; and

(C) Specific rejection or disapproval, in writing, by nearby DW site operators, public or private; and

(iii) The EHWM facility is designed to handle such a request or can be modified to the extent necessary to adequately dispose of the waste.

(c) The state operator, after consulting with the department, may refuse to accept any waste that does not meet the requirements of the acceptance procedures of this subsection until the facts are ascertained, including but not limited to:

(i) The requirement that samples of waste be taken and analyzed; or

(ii) The condition of the containers by physical inspection of the delivery load.

(d) The state operator may accept dangerous waste under emergency conditions if:

(i) An emergency and potential threat to the public health and safety exists;

(ii) the state operator notifies the department as soon as possible;

(iii) The state operator stores the waste upon delivery until the full manifest has been received and approved by the department; and

(iv) The generator is fully apprised that the waste remains his liability until approved under (d)(iii) of this subsection.

(3) Other applicable requirements. The EHWM facility at Hanford ((~~shall~~)) will meet all other requirements of chapter 173-303 WAC, including specific requirements for storage, treatment, transfer and disposal of EHW, and siting, performance, and operation of facilities. The EHWM facility ((~~shall~~)) will also meet the following requirements:

(a) The state operator ((~~shall~~)) will not remove any dangerous waste from the facility without the department's approval;

(b) The state operator ((~~shall~~)) will maintain facilities for telephone and radio contact with the Hanford Reservation security patrol, and include this information with the contingency plan required in WAC 173-303-350;

(c) As a minimum, the state operator ((~~shall~~)) will provide personnel having knowledge and background in the following areas:

(i) Inspecting and checking manifests for completeness and accuracy;

(ii) Applied chemistry as it relates to reactivity, explosiveness, and flammability; and

(iii) Industrial hygiene and/or toxicology of industrial, commercial, and agricultural chemicals, and emergency procedures;

(d) The state operator ((~~shall~~)) will ensure that new personnel have a complete physical examination and annual checkups thereafter. The physician should be alerted to the kinds of materials the employee has been handling, so that more specific analyses can be made. The medical records

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((~~shall~~)) will be made a part of the state operator's records as required in WAC 173-303-380(1); and

(e) The state operator ((~~shall~~)) will submit copies of all fee schedules to the department for yearly review and approval. The state operator ((~~shall~~)) will supply, and the department ((~~shall~~)) will use, the following criteria to review such disposal fees:

(i) Their relationship to other fees charged for similar services;

(ii) Reasonable return on investment and profit for the operator; and

(iii) The cost of administration, development, operation, maintenance, and perpetual management of the EHW facility, including administrative costs and perpetual management costs of the department.

(4) Department surveillance.

(a) In addition to the reports required under WAC 173-303-390, facility reports, the EHWM facility operator ((~~shall~~)) will report the following to the department:

(i) Copies of all environmental sampling results during the previous quarter;

(ii) Telephone and written accounts of any accidents or emergencies requiring action under WAC 173-303-360; and

(iii) Complete financial reports during the previous year.

(b) The state operator ((~~shall~~)) will admit the department's duly authorized representative to inspect the site at any reasonable hour of the day. Inspection may cover any of the following:

(i) The site and facilities;

(ii) The waste being delivered, stored, processed, or buried, including the taking of samples, a portion of each sample being given to the operator upon his request;

(iii) The environment, by the drilling of test wells and obtaining of samples; and

(iv) Any records, reports, information, or test results relating to the purpose of this regulation.

The inspection results will be written, filed with the department, and a copy made available to the state operator.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-800 Permit requirements for dangerous waste management facilities. (1) The purpose of WAC 173-303-800 through 173-303-840 is to establish the requirements for permits which will allow a dangerous waste facility to operate without endangering the public health and the environment.

(2) The owner/operator of a dangerous waste facility that transfers, treats, stores, or disposes (TSD) or recycles dangerous waste ((~~shall~~)) must, when required by this chapter, obtain a permit in accordance with WAC 173-303-800 through 173-303-840 covering the active life, closure period, ground water protection compliance period, and for any regulated unit (as defined in WAC 173-303-040) or for any facility which at closure does not meet the removal or decontamination limits of WAC 173-303-610 (2)(b), post-closure care period, unless they demonstrate closure by removal or decontamination as provided under WAC 173-303-800 (9) and (10). The denial of a permit for the active life of a dangerous waste management facility or unit does not affect the requirement to obtain a post-closure permit under this section.

(3) TSD facility permits will be granted only if the objectives of the siting and performance standards set forth in WAC 173-303-282 and 173-303-283 are met.

(4) Permits ((~~shall~~)) will be issued according to the requirements of all applicable TSD facility standards.

(5) The owner/operator of a TSD facility is responsible for obtaining all other applicable federal, state, and local permits authorizing the development and operation of the TSD facility.

(6) The terms used in regard to permits which are not defined in WAC 173-303-040 ((~~shall~~)) will have the same meanings as set forth in 40 CFR 270.2.

(7) Exemptions.

(a) A permit for an on-site cleanup action may be exempted as provided in a consent decree or order signed by the department and issued pursuant to chapter 70.105D RCW.

(b) A permit is not required for an on-site cleanup action performed by the department pursuant to chapter 70.105D RCW.

(c) Further exemptions.

(i) A person is not required to obtain a dangerous waste permit for treatment or containment activities taken during immediate response to any of the following situations:

(A) A discharge of a dangerous waste;

(B) An imminent and substantial threat of a discharge of dangerous waste;

(ii) Any person who continues or initiates dangerous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(8) Each permit issued under this chapter ((~~shall~~)) will contain terms and conditions as the department determines necessary to protect human health and the environment.

(9) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under 40 CFR Part 265 standards as referenced by WAC 173-303-400 must obtain a post-closure permit unless they can demonstrate to the department that the closure met the standards for closure by removal or decontamination in WAC 173-303-650(6), 173-303-655(8), or 173-303-660(9), as appropriate, and such removal or decontamination must assure that the levels of dangerous waste or dangerous waste constituents or residues do not exceed standards for closure at 40 CFR Part 264.111, as appropriate. The demonstration may be made in the following ways:

(a) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that 40 CFR Part 264.111 standards for closure by removal were met. If the department believes that 40 CFR Part 264.111 standards were met, the department will notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in subsection (10) of this section.

(b) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the department for a determination that a post-

closure permit is not required because the closure met the applicable 40 CFR Part 264.111 closure standards.

(i) The petition must include data demonstrating that standards for closure by removal or decontamination were met, or it must demonstrate that the unit closed under chapter 173-303 WAC requirements that met or exceeded the applicable 40 CFR Part 264.111 closure-by-removal standard.

(ii) The department ((~~shall~~)) will approve or deny the petition according to the procedures outline in subsection (10) of this section.

(10) Procedures for closure equivalency determination.

(a) If a facility owner/operator seeks an equivalency demonstration under subsection (9) of this section, the department will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within thirty days from the date of the notice. The department will also, in response to a request or at the discretion of the department, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the 40 CFR Part 265 closure, as referenced by WAC 173-303-400, to a 40 CFR Part 264.111 closure. The department will give public notice of the hearing at least thirty days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

(b) The department will determine whether the 40 CFR Part 265 closure met 40 CFR Part 264.111 closure by removal or decontamination requirements within ninety days of its receipt. If the department finds that the closure did not meet the applicable 40 CFR Part 264.111 standards, the department will provide the owner/operator with a written statement of the reasons why the closure failed to meet 40 CFR Part 264.111 standards. The owner/operator may submit additional information in support of an equivalency demonstration within thirty days after receiving such written statement. The department will review any additional information submitted and make a final determination within sixty days.

(c) If the department determines that the facility did not close in accordance with 40 CFR Part 264.111 standards for closure by removal, the facility is subject to post-closure permitting requirements.

(11) The department may require a permittee or an applicant to submit information in order to establish permit conditions under subsection (8) of this section and WAC 173-303-806 (11)(d).

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-801 Types of dangerous waste management facility permits. The following types of permits may be issued by the department to carry out the purpose of this regulation.

(1) Permits by rule:

(a) Ocean disposal - See WAC 173-303-802(2);

(b) Underground injection wells - See WAC 173-303-802(3);

(c) Publicly owned treatment works - See WAC 173-303-802(4); and

(d) Totally enclosed treatment facilities and elementary neutralization and wastewater treatment units - See WAC 173-303-802(5).

(2) Emergency permits - See WAC 173-303-804.

(3) Interim status permits - See WAC 173-303-805.

(4) Final facility permits:

(a) Final status TSD permits - See WAC 173-303-806; and

(b) ((~~Special waste permits - See WAC 173-303-806; and~~

~~(c)~~)) Recycling permits - See WAC 173-303-806.

(5) Trial burns for dangerous waste incinerator final facility permits - See WAC 173-303-807.

(6) Demonstrations for dangerous waste land treatment final facility permits - See WAC 173-303-808.

(7) Research, development, and demonstration permits - See WAC 173-303-809.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-802 Permits by rule. (1) Purpose and applicability. This section provides for permit by rule for particular facilities and activities managing dangerous wastes, provided that certain conditions are met. These facilities, activities, and conditions are listed in this section. Owners and operators of facilities with permits by rule are not required to submit an application for a dangerous waste facility permit.

(2) Ocean disposal barges or vessels. The owner or operator of a barge or other vessel which accepts dangerous waste for ocean disposal, ((~~shall~~)) will have a permit by rule if the owner or operator:

(a) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. § 1420 et seq.);

(b) Complies with the conditions of that permit; and

(c) Complies with the following dangerous waste regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-370, manifest system;

(iv) WAC 173-303-380 (1)(a), operating record;

(v) WAC 173-303-390(2), annual report; and

(vi) WAC 173-303-390(1), unmanifested waste report.

(3) Underground injection wells. Underground injection wells with an underground injection control (UIC) permit for underground injection ((~~shall~~)) will have a permit by rule if the owner or operator has a UIC permit issued by the department under a federally approved program for underground injection control, and complies with the conditions of the permit and requirements of 40 CFR 144.14 and applicable state waste discharge rules. For UIC permits issued after November 8, 1984, the owner or operator must comply with WAC 173-303-646(2), corrective action for solid waste management units; and where the UIC well is the only unit at a facility which requires a RCRA permit, complies with

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WAC 173-303-806 (4)(a)(xxiii). All underground injection wells must comply with WAC 173-303-060, notification and identification numbers. However, underground injection wells disposing of EHW are prohibited.

(4) Publicly owned treatment works (POTW). The owner or operator of a POTW which accepts dangerous waste for treatment, ((~~shall~~)) will have a permit by rule if the owner or operator:

(a) Has a National Pollutant Discharge Elimination System (NPDES) permit;

(b) Complies with the conditions of that permit;

(c) Complies with the following regulations:

(i) WAC 173-303-060, notification and identification numbers;

(ii) WAC 173-303-170 through 173-303-230 when initiating shipments of dangerous waste;

(iii) WAC 173-303-283, performance standards;

(iv) WAC 173-303-370, manifest system;

(v) WAC 173-303-380 (1)(a), operating record;

(vi) WAC 173-303-390(2), annual report;

(vii) WAC 173-303-390(1), unmanifested waste reports; and

(viii) For NPDES permits issued after November 8, 1984, WAC 173-303-646(2), corrective action for solid waste management units;

(d) Accepts the waste only if it meets all federal, state, and local pretreatment requirements which would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance; and

(e) Accepts no EHW for disposal at the POTW.

(5) Totally enclosed treatment facilities or elementary neutralization or wastewater treatment units.

(a) The owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit that treats dangerous wastes ((~~shall~~)) will have a permit by rule, except as provided in (b) of this subsection, if he:

(i) Has an NPDES permit, state waste discharge permit, pretreatment permit (or written discharge authorization from the local sewerage authority) issued by the department, or pretreatment permit (or written discharge authorization) from a local sewage utility delegated pretreatment program responsibilities pursuant to RCW 90.48.165, and the permit or authorization covers the waste stream and constituents being discharged;

(ii) Complies with the conditions of that permit;

(iii) Complies with the following regulations:

(A) WAC 173-303-060, notification and identification numbers;

(B) WAC 173-303-070, designation of dangerous waste;

(C) WAC 173-303-283, performance standards;

(D) WAC 173-303-300, general waste analysis;

(E) WAC 173-303-310, security;

(F) WAC 173-303-350, contingency plan and emergency procedures;

(G) WAC 173-303-360, emergencies;

(H) WAC 173-303-370, manifest system;

(I) WAC 173-303-380 (1)(d), operating record;

(J) WAC 173-303-390, facility reporting.

(b) The department may require the owner or operator of a totally enclosed treatment facility or an elementary neutralization or wastewater treatment unit subject to (a) of this subsection to apply for and obtain a final facility permit in accordance with WAC 173-303-800 through 173-303-840, if:

(i) The owner or operator violates the general facility or performance requirements specified in (a) of this subsection;

(ii) The owner or operator is conducting other activities which require him to obtain a final facility permit;

(iii) The department determines that the general facility or performance requirements specified in (a) of this subsection, are not sufficient to protect public health or the environment and that additional requirements under this chapter are necessary to provide such protection; or

(iv) The owner or operator does not comply with applicable local, state or federal requirements established pursuant to sections 402 or 307(b) of the Federal Clean Water Act, or chapter 90.48 RCW.

AMENDATORY SECTION (Amending Order DE-85-10, filed 6/3/86)

WAC 173-303-804 Emergency permits. Requirements for an emergency permit. In the event the department finds that an imminent and substantial endangerment to human health or the environment exists, the department may issue a temporary emergency permit to a facility to allow treatment, storage, or disposal (TSD) of dangerous waste at a nonpermitted facility, or at a facility covered by an effective permit that does not otherwise allow treatment, storage, or disposal of such dangerous waste. Notice of the issuance of an emergency permit ((~~shall~~)) will be given to the fire marshal, police department, and other local emergency service agencies with jurisdiction near the location of the facility. The emergency permit:

(1) May be oral or written. If oral, it ((~~shall~~)) will be followed within five days by a written emergency permit;

(2) ((~~Shall~~)) Will not exceed ninety days in duration for dangerous wastes;

(3) ((~~Shall~~)) Will not exceed one hundred eighty days in duration for moderate risk wastes;

(4) ((~~Shall~~)) Will clearly specify the dangerous wastes to be received, and the manner and location of their treatment, storage, or disposal;

(5) May be terminated by the department at any time without following the decisionmaking procedures of WAC 173-303-840 if the department determines that termination is appropriate to protect public health and the environment;

(6)(a) ((~~Shall~~)) Will be accompanied by a public notice that includes:

(i) The name and address of the department;

(ii) The name and location of the permitted TSD facility;

(iii) A brief description of the wastes involved;

(iv) A brief description of the action authorized and reasons for authorizing it; and

(v) The duration of the emergency permit; and

(b) ((~~Shall~~)) Will be given public notice by:

(i) Publication in a daily newspaper within the area affected;

(ii) By radio broadcast within the area affected;

(iii) By mailing a copy of the public notice to the persons described in WAC 173-303-840 (3)(e)(i); and

(iv) Any other method reasonably determined to give actual notice of the emergency permit to persons potentially affected by it; and

(7) ((~~Shall~~)) Will incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this chapter.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-805 Interim status permits. (1) Applicability. This section applies to all facilities eligible for an interim status permit. When a facility is owned by one person but is operated by another person, it is the operator's duty to qualify for interim status, except that the owner must also sign an interim status application. Prior to submittal of an interim status permit application the requirements of WAC 173-303-281 must be met.

(2) Failure to qualify for interim status. If the department has reason to believe upon examination of a Part A application that it fails to provide the required information, it ((~~shall~~)) will notify the owner or operator in writing of the apparent deficiency. Such notice ((~~shall~~)) will specify the grounds for the department's belief that the application is deficient. The owner or operator ((~~shall~~)) will have thirty days from receipt to respond to such a notification and to explain or cure the alleged deficiency in his Part A application. If, after such notification and opportunity for response, the department determines that the application is deficient it may take appropriate enforcement action.

(3) Interim status for facilities under RCRA interim status. Any existing facility operating under interim status gained under section 3005 of RCRA ((~~shall~~)) will be deemed to have an interim status permit under this chapter provided that the owner/operator complies with the applicable requirements of WAC 173-303-400 and this section.

(4) Interim status for facilities managing state-designated (non-RCRA) dangerous wastes. Any existing facility which does not satisfy subsection (3) of this section, but which is only managing dangerous wastes that are not hazardous wastes under 40 CFR Part 261, ((~~shall~~)) will be deemed to have an interim status permit provided that the owner/operator of the facility has complied with the notification requirements of WAC 173-303-060 by May 11, 1982 and has submitted Part A of his permit application by August 9, 1982. If an existing facility becomes subject to this chapter due to amendments to this chapter and the facility was not previously subject to this chapter, then the owner/operator of an existing facility may qualify for an interim status permit by complying with the notification requirements of WAC 173-303-060 within three months, and submitting Part A of his permit application within six months, after the adoption date of the amendments which cause the facility to be subject to the requirements of this chapter. Facilities qualifying for interim status under this subsection ((~~shall~~)) will not be deemed to have interim status under section 3005 of RCRA, and may only manage non-RCRA wastes until they either qualify separately for interim status under section 3005 of RCRA or receive a final status facility permit allowing them to manage RCRA wastes.

(5) Maintaining the interim status permit.

(a) Timely notification and submission of a Part A application qualifies the owner/operator of the existing TSD facility for the interim status permit, until the department terminates interim status pursuant to subsection (8) of this section.

(b) Interim status for the existing TSD facility ((~~shall~~)) will be maintained while the department makes final administrative disposition of a final facility permit pursuant to WAC 173-303-806 if:

(i) The owner/operator has submitted his final facility permit application (as described in WAC 173-303-806) within six months of the written request by the department to submit such application; and

(ii) Grounds for terminating interim status (as described in subsection (8) of this section) do not exist.

(c) The owner/operator of an interim status facility must update his Part A whenever he is managing wastes that are newly regulated under this chapter, and as necessary to comply with subsection (7) of this section. Failure to comply with this updating requirement is a violation of interim status.

(6) Prohibitions for interim status permits. Facilities with an interim status permit ((~~shall~~)) will not:

(a) Treat, store, or dispose of dangerous waste not specified in Part A of the permit application;

(b) Employ processes not specified in Part A of the permit application; or

(c) Exceed the design capacities specified in Part A of the permit application.

(7) Changes during interim status.

(a) Except as provided in (b) of this subsection, the owner or operator of an interim status facility may make the following changes at the facility:

(i) Treatment, storage, or disposal of new dangerous wastes not previously identified in Part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the dangerous wastes on the effective date of the listing or identification) if the owner or operator submits a revised Part A permit application prior to such treatment, storage, or disposal (along with a justification detailing the equipment and process or processes that the owner or operator will use to treat, store, or dispose of the new dangerous wastes) and if the department does not explicitly deny the changes within sixty days of receipt of the revised application;

(ii) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised Part A permit application prior to such a change (along with a justification explaining the need for the change), the requirements of WAC 173-303-281 are met, and the department approves the changes because:

(A) There is a lack of available treatment, storage, or disposal capacity at other dangerous waste management facilities; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iii) Changes in the processes for the treatment, storage, or disposal of dangerous waste or addition of processes if the owner or operator submits a revised Part A permit application prior to such change (along with a justification explain-

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ing the need for the change) and the department approves the change because:

(A) The change is necessary to prevent a threat to human health and the environment because of an emergency situation; or

(B) The change is necessary to comply with a federal, state, or local requirement.

(iv) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised Part A permit application no later than ninety days prior to the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator ((~~shall~~)) must comply with the interim status financial requirements of 40 CFR Part 265, Subpart H (as referenced in WAC 173-303-400), until the new owner or operator has demonstrated to the department that he is complying with the financial requirements. Upon demonstration to the department by the new owner or operator of compliance with the interim status financial requirements, the department ((~~shall~~)) will notify the old owner or operator in writing that he no longer needs to comply with the interim status financial requirements as of the date of demonstration. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change in ownership or operational control of the facility. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility.

(v) Changes made in accordance with an interim status corrective action order issued by EPA under section 3008(h) of RCRA or other federal authority, including an order or consent decree issued pursuant to WAC 173-303-646 (2) or (3), by the department under chapter 70.105 RCW or other state authority, or by a court in a judicial action brought by EPA or by the department. Changes under this subsection (7)(a)(v) are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Addition of newly regulated units for the treatment, storage, or disposal of dangerous waste if the owner or operator submits a revised Part A permit application on or before the date on which the unit becomes subject to the new requirements.

(b) Except as specifically allowed under this subsection (7)(b), changes listed under (a) of this subsection may not be made if they amount to reconstruction of the dangerous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty percent of the capital cost of a comparable entirely new dangerous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

(i) Changes made solely for the purposes of complying with the requirements of WAC 173-303-640(4) for tanks and ancillary equipment.

(ii) If necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of section 3004(o) of RCRA.

(iii) Changes that are necessary to allow owners or operators to continue handling newly listed or identified dangerous wastes that have been treated, stored, or disposed of at the facility prior to the effective date of the rule establishing the new listing or identification.

(iv) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan.

(v) Changes necessary to comply with an interim status corrective action order issued by EPA under section 3008(h) or other federal authority, by ((~~an authorized state under comparable~~)) the department under chapter 70.105 RCW or other state authority, or by a court in a judicial proceeding brought by EPA or an authorized state, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

(vi) Changes to treat or store, in tanks ((~~or~~)), containers, or containment buildings hazardous wastes subject to land disposal restrictions imposed by 40 CFR Part 268 or RCRA section 3004, provided that such changes are made solely for the purpose of complying with 40 CFR Part 268 or RCRA section 3004.

(vii) Addition of newly regulated units under (a)(vi) of this subsection.

(8) Termination of interim status permit. The following are causes for terminating an interim status permit, or for denying a revised permit application:

(a) Final administrative disposition of a final facility permit application is made pursuant to WAC 173-303-806;

(b) When the department on examination or reexamination of a Part A application determines that it fails to meet the applicable standards of this chapter, it may notify the owner or operator that the application is deficient and that the interim status permit has been revoked. The owner or operator will then be subject to enforcement for operating without a permit;

(c) Failure to submit a requested Part B application on time, or to provide in full the information required in the Part B application;

(d) Violation of applicable interim status standards; ((~~or~~))

(e) A determination that the permit applicant has failed to satisfy the performance standards of WAC 173-303-283;

(f) For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, interim status terminated on November 8, 1985, unless:

(i) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(ii) The owner or operator certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(g) For owners or operators of each land disposal facility which is in existence on the effective date of statutory or regulatory amendments under the Hazardous Waste Management Act that render the facility subject to the requirement to have a final facility permit and which is granted interim status, interim status terminates twelve months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(i) Submits a Part B application for a final facility permit for such facility before the date twelve months after

the date on which the facility first becomes subject to such permit requirement; and

(ii) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(h) For owners or operators of any land disposal unit that is granted authority to operate under subsection (7)(a)(i), (ii) or (iii) of this section, interim status terminates on the date twelve months after the effective date of such requirement, unless the owner or operator certifies that such unit is in compliance with all applicable ground water monitoring and financial responsibility requirements;

(i) For owners and operators of each incinerator facility which achieved interim status prior to November 8, 1984, interim status terminated on November 8, 1989, unless the owner or operator of the facility submitted a Part B application for a final facility permit for an incinerator facility by November 8, 1986; or

(j) For owners or operators of any facility (other than a land disposal or an incinerator facility) which has achieved interim status prior to November 8, 1984, interim status terminated on November 8, 1992, unless the owner or operator of the facility submitted a Part B application for a final facility permit for the facility by November 8, 1988.

(9) ((~~Special waste facilities. If the department determines, pursuant to WAC 173-303-550 through 173-303-560, that interim status standards can be reduced, the department will issue a notice of interim status modification stating what standards will be applied. Failure to comply with the conditions and standards as stated in the notice of modification or with the requirements of this section shall form a basis for revoking the notice. Upon revocation of the notice of interim status modification by the department, the owner or operator shall be subject to all of the requirements applicable to interim status dangerous waste management facilities. Before issuing the notice of modification, the department shall provide public notice of its intent, shall allow thirty days for public comment, and shall hold a public hearing if there is a significant degree of public interest or there is written notice of opposition and the department receives a request for a hearing during the comment period. Notice of a public hearing shall be provided at least fifteen days in advance, and the public comment period shall be extended to include the date of the hearing if it will occur after the initial thirty day comment period. Within fifteen days of the end of the public comment period the department shall, based on comments received, issue, modify and issue, or deny the notice of interim status modification.~~))

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-806 Final facility permits. (1) Applicability. This section applies to all dangerous waste facilities required to have a final facility permit. The final facility permit requirements are applicable to:

(a) Final status TSD facilities; and

(b) ((~~Special waste management facilities; and~~

~~(c)~~)) Certain recycling facilities that are not exempt from the permit requirements.

(2) Application. Any person subject to the permit requirements of this section who intends to operate a new TSD facility must comply with WAC 173-303-281 and apply for a final facility permit. The department may, at any time, require the owner or operator of an existing TSD facility to apply for a final facility permit. Such owner or operator will be allowed one hundred eighty days to submit his application; the department may extend the length of the application period if it finds that there are good reasons to do so. The owner or operator of an existing TSD facility may voluntarily apply for a final facility permit at any time. Any person seeking a final facility permit ((~~shall~~)) must complete, sign, and submit an application to the department. An application ((~~shall~~)) will consist of a Part A permit form (which can be obtained from the department), and the contents of Part B as specified in subsection (4) of this section.

(3) Effective regulations. A final facility permit will include all applicable requirements of this chapter which are in effect on the date that the permit is issued by the department. WAC 173-303-840(7) provides a means for reopening permit proceedings at the discretion of the department where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. Any other changes to the final facility permit will be in accordance with the permit modification requirements of WAC 173-303-830.

(4) Contents of Part B. Part B of a permit application ((~~shall~~)) will consist of the information required in (a) through (i) of this subsection.

(a) General requirements. Part B of the permit application consists of the general information requirements of this subsection, and the specific information requirements in (b) through (h) of this subsection as applicable to the facility. The Part B information requirements presented in (a) through (h) of this subsection, reflect the standards promulgated in WAC 173-303-600. These information requirements are necessary in order for the department to determine compliance with WAC 173-303-600 through 173-303-670. If owners and operators of TSD facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the department may make allowance for submission of such information on a case-by-case basis. Information required in Part B ((~~shall~~)) must be submitted to the department and signed in accordance with requirements in WAC 173-303-810(12). Certain technical data, such as design drawings and specifications, and engineering studies ((~~shall~~)) must be certified by a registered professional engineer. The following information is required for all TSD facilities, except as WAC 173-303-600(3) provides otherwise.

(i) A general description of the facility.

(ii) Chemical, biological, and physical analyses of the dangerous waste and hazardous debris to be handled at the facility. At a minimum, these analyses ((~~shall~~)) must contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with WAC 173-303-600.

(iii) A copy of the waste analysis plan required by WAC 173-303-300(5) and, if applicable WAC 173-303-300 (5)(g).

(iv) A description of the security procedures and equipment required by WAC 173-303-310, or a justification demonstrating the reasons for requesting a waiver of this requirement.

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(v) A copy of the general inspection schedule required by WAC 173-303-320(2): Include where applicable, as part of the inspection schedule, specific requirements in WAC 173-303-395 (1)(d), 173-303-630(6), 173-303-640 (4)(a)(i) and (6), 173-303-650(4), 173-303-655(4), 173-303-660 (4) and (5), 173-303-665(4), 173-303-670(7), and 173-303-680(3), and 40 CFR 264.1033, 264.1035, 264.1052, 264.1053, 264.1058, 264.1064, 264.1067, 264.1088, and 264.1091.

(vi) A justification of any request for a waiver(s) of the preparedness and prevention requirements of WAC 173-303-340, or a description of the procedures used to comply with these requirements.

(vii) A copy of the contingency plan required by WAC 173-303-350: Include, where applicable, as part of the contingency plan, specific requirements in WAC 173-303-640(7), 173-303-650(5) and 173-303-660(6).

(viii) A description of procedures, structures, or equipment used at the facility to:

(A) Prevent hazards and contain spills in unloading/loading operations (for example, ramps, berms, pavement, special forklifts);

(B) Prevent run-off from dangerous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(C) Prevent contamination of water supplies;

(D) Mitigate effects of equipment failure and power outages; ((~~and~~))

(E) Prevent undue exposure of personnel to dangerous waste (for example, protective clothing); and

(F) Prevent releases to the atmosphere.

(ix) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with WAC 173-303-395 including documentation demonstrating compliance with WAC 173-303-395 (1)(c).

(x) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; show traffic control signals).

(xi) Seismic risk consideration. The owner/operator of a proposed facility or expansion of an existing facility ((~~shall~~)) must identify the seismic risk zone in which the facility is intended to be located. Where state or local maps are not available, United States Geological Survey Open File Report number 82-1033 may be used to identify seismic risk zones. The owner/operator ((~~shall~~)) must demonstrate that the facility can and will be designed to resist seismic ground motion and that the design is sufficient to withstand the maximum horizontal acceleration of a design earthquake specified in the demonstration.

(xii) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the TSD facility in a safe manner as required to demonstrate compliance with WAC 173-303-330. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in WAC 173-303-330 (1)(d).

(xiii) A copy of the closure plan and, where applicable, the post-closure plan required by WAC 173-303-610 (3) and (8). Include, where applicable, as part of the plans, specific requirements in WAC 173-303-630(10), 173-303-640(8), 173-303-650(6), 173-303-655(8), 173-303-660(9), 173-303-665(6), 173-303-670(8), and 173-303-680 (2) and (4).

(xiv) For dangerous waste disposal units that have been closed, documentation that notices required under WAC 173-303-610(10) have been filed.

(xv) The most recent closure cost estimate for the facility prepared in accordance with WAC 173-303-620(3) and a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(4). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvi) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with WAC 173-303-620(5) plus a copy of the documentation required to demonstrate financial assurance under WAC 173-303-620(6). For a new facility, a copy of the required documentation may be submitted sixty days prior to the initial receipt of dangerous wastes, if that is later than the submission of the Part B.

(xvii) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of WAC 173-303-620(8). For a new facility, documentation showing the amount of insurance meeting the specification of WAC 173-303-620 (8)(a) and, if applicable, WAC 173-303-620 (8)(b), that the owner or operator plans to have in effect before initial receipt of dangerous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in WAC 173-303-620 (8)(c).

(xviii) A topographic map showing a distance of one thousand feet around the facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). Owners and operators of TSD facilities located in mountainous areas should use large contour intervals to adequately show topographic profiles of facilities. The map ((~~shall~~)) must clearly show the following:

(A) Map scale and date;

(B) One hundred-year floodplain area;

(C) Surface waters including intermittent streams;

(D) Surrounding land uses (residential, commercial, agricultural, recreational);

(E) A wind rose (i.e., prevailing windspeed and direction);

(F) Orientation of the map (north arrow);

(G) Legal boundaries of the TSD facility site;

(H) Access control (fences, gates);

(I) Injection and withdrawal wells both on-site and off-site;

(J) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, run-off control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(K) Barriers for drainage or flood control; ((~~and~~))

(L) Location of operational units within the TSD facility site, where dangerous waste is (or will be) treated, stored, or disposed (include equipment clean-up areas); and

(M) For land disposal facilities, if a case-by-case extension has been approved under 40 CFR 268.5 or a petition has been approved under 40 CFR 268.6, a copy of the notice of approval for the extension or petition is required.

(Note - For large TSD facilities the department will allow the use of other scales on a case-by-case basis.)

(xix) Applicants may be required to submit such information as may be necessary to enable the department to carry out its duties under other state or federal laws as required.

(xx) Additional information requirements. The following additional information regarding protection of ground water is required from owners or operators of dangerous waste facilities containing a regulated unit except as otherwise provided in WAC 173-303-645 (1)(b):

(A) A summary of the ground water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94, where applicable;

(B) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area);

(C) On the topographic map required under (a)(xviii) of this subsection, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under WAC 173-303-645(6), the proposed location of ground water monitoring wells as required under WAC 173-303-645(8), and, to the extent possible, the information required in (a)(xx)(B) of this subsection;

(D) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:

(I) Delineates the extent of the plume on the topographic map required under (a)(xviii) of this subsection;

(II) Identifies the concentration of each constituent throughout the plume or identifies the maximum concentrations of each constituent in the plume. (Constituents are those listed in Appendix IX of 40 CFR Part 264, and any other constituents not listed there which have caused a managed waste to be regulated under this chapter.);

(E) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of WAC 173-303-645(8);

(F) If the presence of dangerous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a detection monitoring program which meets the requirements of WAC 173-303-645(9). This submission must address the following items specified under WAC 173-303-645(9):

(I) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of dangerous constituents in the ground water;

(II) A proposed ground water monitoring system;

(III) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(IV) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data;

(G) If the presence of dangerous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of WAC 173-303-645(10). The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of WAC 173-303-645(11) except as provided in WAC 173-303-645 (9)(h)(v). Alternatively, the owner or operator can obtain written authorization in advance from the department to submit a proposed permit schedule for development and submittal of such information. To demonstrate compliance with WAC 173-303-645(10), the owner or operator must address the following items:

(I) A description of the wastes previously handled at the facility;

(II) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(III) A list of constituents and parameters for which compliance monitoring will be undertaken in accordance with WAC 173-303-645 (8) and (10);

(IV) Proposed concentration limits for each dangerous constituent and parameter, based on the criteria set forth in WAC 173-303-645 (5)(a), including a justification for establishing any alternate concentration limits;

(V) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of WAC 173-303-645(8); and

(VI) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data; and

(H) If dangerous constituents or parameters have been measured in the ground water which exceed the concentration limits established under WAC 173-303-645(5), Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 at the waste boundary indicates the presence of dangerous constituents from the facility in ground water over background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of WAC 173-303-645(11). However, an owner or operator is not required to submit information to establish a corrective action program if he demonstrates to the department that alternate concentration limits will protect human health and the environment after considering the criteria listed in WAC 173-303-645(5). An owner or operator who is not required to establish a corrective action program for this reason must instead submit sufficient information to establish a compliance monitoring program which meets the requirements of WAC 173-303-645 (10) and (a)(xx)(F) of this subsection. To demonstrate compliance with WAC 173-303-645(11), the owner or operator must address, at a minimum, the following items:

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(I) A characterization of the contaminated ground water, including concentrations of dangerous constituents and parameters;

(II) The concentration limit for each dangerous constituent and parameter found in the ground water as set forth in WAC 173-303-645(5);

(III) Detailed plans and an engineering report describing the corrective action to be taken;

(IV) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action; and

(V) The permit may contain a schedule for submittal of the information required in (a)(xx)(H)(III) and (IV) of this subsection, provided the owner or operator obtains written authorization from the department prior to submittal of the complete permit application.

(xxi) Contingent ground water protection program. The following actions are required for owners or operators of proposed land-based facilities and may be required for owners/operators of existing land-based facilities, except as provided in WAC 173-303-645 (1)(b).

(A) Contingent ground water protection program. The owner or operator ((~~shall~~)) must develop a contingent ground water protection program. The purpose of this program will be to prevent the migration of dangerous waste or dangerous waste constituents from waste management units to the nearest hydraulically downgradient receptor at any time during the life of the facility. For the purposes of this subsection, the downgradient receptor ((~~shall~~)) will be the facility property line, perennial surface water or domestic well, whichever is nearest to the dangerous waste management unit. The contingent ground water protection program ((~~shall~~)) will at a minimum:

(I) Define the local and regional hydrogeologic characteristics. The contingent ground water protection program ((~~shall~~)) will be based on a sufficient understanding of site geology, hydrology, and other factors to allow evaluation of its adequacy by the department. Site characterization ((~~shall~~)) will be performed in sufficient detail to provide, at a minimum, the following information: Site geostratigraphy; site hydrostratigraphy; identification of aquifers, aquitards, and aquicludes; flow models for each stratum (i.e., porus media or fracture flow); the distribution of vertical and horizontal hydraulic conductivity; effective porosity; horizontal and vertical hydraulic gradients; ground water travel time to receptors; and heterogeneity for each stratigraphic unit. Site interpretative models ((~~shall~~)) will include ranges of tested values: The provisions of WAC 173-303-806 (4)(a)(xx) and 173-303-645, ((~~shall~~)) will be used as guidance in the development of the contingent ground water protection program.

(II) Identify the range of potential release scenarios that could occur during facility operation and the postclosure care period. The scenarios ((~~shall~~)) will incorporate the intended design(s) of the dangerous waste management unit(s), wastes to be placed in the dangerous waste management unit(s), waste and leachate chemistry, waste, and soil and rock geochemical interactions, and the results of site characterization pursuant to WAC 173-303-806 (4)(a)(xx) and (xxi);

(III) Include specific physical action to be taken if dangerous waste or dangerous waste constituents are detected in one or more of the monitoring wells. The physical actions ((~~shall~~)) will be based upon engineering feasibility studies describing remedial actions established from site specific conditions and waste features. Such actions may include installation of a pump and treat system between the monitoring well and the receptor or installation of a section of slurry wall to decrease ground water travel times. The description of the systems ((~~shall~~)) will also provide how the remediation system will achieve cleanup, its efficiency, and the timeframes involved;

(IV) Incorporate the design, construction, and sampling methods outlined in WAC 173-303-645 (8)(c), (d), (e), (f), and (g);

(V) Demonstrate to the satisfaction of the department that the owner/operator of the dangerous waste management facility has the financial capability to implement the proposed ground water protection plan; and

(VI) Include reporting procedures to the department.

(B) The response actions identified in WAC 173-303-806 (4)(a)(xxi)(A)(III) ((~~shall~~)) will be activated if the presence of dangerous waste or dangerous waste constituents have been detected at the point of compliance in accordance with WAC 173-303-645 (9)(g), and ((~~shall~~)) will continue until the concentration of dangerous waste or dangerous waste constituents under WAC 173-303-645(4) are reduced to levels below their respective concentration limits specified in WAC 173-303-645(5).

(C) If the owner/operator does not demonstrate that the ground water protection program will prevent the migration of dangerous waste or its constitutents to the nearest receptor, the department will require corrections to be made in the protection program, increase setbacks from the nearest receptor, or deny the permit.

(xxii) Additional requirements for incineration facilities. The following actions regarding the protection of human health and the environment must be taken by owners/operators of proposed hazardous waste incineration facilities and may be required for owners or operators of existing incineration facilities.

(A) Ambient monitoring program. The owner/operator ((~~shall~~)) will be required to develop an ambient monitoring program. The purpose of this ambient monitoring program will be to: Gather baseline environmental information characterizing on-site and off-site environmental conditions prior to facility operation; and, to identify and measure changes in the environment which may be linked to the construction and operation of the facility. The ambient monitoring program ((~~shall~~)) will, at a minimum:

(I) Include a characterization of facility emission sources and pathways of contaminant transport.

(II) Characterize local and regional ecosystems, including agricultural, and their sensitivity to the potential contaminants from the facility.

(III) Incorporate the findings of the environmental impact statement's health risk assessment and/or other assessments specific to the proposal or available to the scientific community regarding emissions from dangerous waste management facilities and their potential human health and environmental effects.

(IV) Identify sensitive indicator plants and animals for biomonitoring, identify specific chemical constituents of concern, sampling locations, sampling frequency, sampling and analytical methods, chain of custody procedures, quality

assurance/quality control procedures, reporting times, recordkeeping procedures, and data evaluation procedures.

(B) Environmental review procedures. The owner/operator ((~~shall~~)) will establish procedures to allow for public review of facility operation and all monitoring data required by the facility's permit. In developing this process, the owner/operator ((~~shall~~)) will, at a minimum:

(I) Coordinate this effort with the public and interested local organizations;

(II) Identify the informational needs of the community and develop a public information process which meets these needs; and

(III) Develop procedures allowing full access by the public to all monitoring data required by the permit.

(C) Impact mitigation plan. Prior to the department issuing a permit, the owner/operator ((~~shall~~)) must submit an impact mitigation plan which demonstrates to the satisfaction of the department that the owner/operator will mitigate all probable significant adverse impacts, including economic, due to facility location and operations. The owner/operator ((~~shall~~)) will use as a basis for identifying probable significant adverse economic impacts those probable economic impacts identified during a public review process, such as the environmental impact statement scoping process, if applicable.

The plan must include, but is not limited to, a description of what the owner/operator will do to reduce or prevent any probable significant impacts before they occur, to mitigate such impacts should they occur, and to ensure the owner/operator has and will have the financial capability to implement such preventative and mitigative measures. Mitigation measures may include, as an element, financial compensation to adversely affected parties.

This plan may be submitted with environmental reports the department requires for compliance with the State Environmental Policy Act, with the written citizen proponent negotiation report and agreements, or with the Part B permit application. If the plan does not demonstrate that the owner/operator is capable of adequately mitigating the identified probable significant adverse economic impacts, the department will require modification of the plan or of the proposed facility location, or will deny the permit application. The department must be satisfied with the plan prior to the issuance of the permit.

(xxiii) Information requirements for solid waste management units.

(A) The following information is required for each solid waste management unit:

(I) The location of the unit on the topographic map required under (a)(xviii) of this subsection.

(II) Designation of type of unit.

(III) General dimensions and structural description (supply any available drawings).

(IV) Time frame over which the unit was operated.

(V) Specification of all wastes that have been managed in the unit, to the extent available.

(B) The owner/operator of any facility containing one or more solid waste management units must submit all available information pertaining to any release of dangerous wastes or dangerous constituents from such unit or units.

(C) The owner/operator must conduct and provide the results of sampling and analysis of ground water, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the department determines it is necessary to complete a RCRA Facility Assessment that will determine if a more complete investigation is necessary.

WAC 173-303-806 (4)(a)(xxiv):

(xxiv) Information requirements for known releases.

(A) In order to provide for corrective action necessary to protect human health and the environment, the following information is required for ((~~any and~~)) all known significant releases of dangerous waste and dangerous constituents (as defined by WAC 173-303-646 (2)(c)) at, and from, the facility. A significant release is a release which has affected or has the potential to affect human health or the environment at or beyond the facility.

(I) The location of the release on the topographic map required under (a)(xviii) of this subsection.

(II) General dimensions of the release and any relevant structural description. For example, if the release is from a storage tank, provide a structural description of the tank. Supply any available drawings.

(III) Time frame over which the release occurred.

(IV) Specification of all dangerous waste or dangerous constituents (as defined by WAC 173-303-646 (2)(c)) present in the release, to the extent available.

(b) Specific Part B information requirements for containers. Except as otherwise provided in WAC 173-303-600(3), owners or operators of facilities that store containers of dangerous waste must provide the following additional information:

(i) A description of the containment system to demonstrate compliance with WAC 173-303-630(7). Show at least the following:

(A) Basic design parameters, dimensions, and materials of construction including allowance for a twenty-five-year, twenty-four-hour storm;

(B) How the design promotes positive drainage control or how containers are kept from contact with standing liquids in the containment system;

(C) Capacity of the containment system relative to the volume of the largest container to be stored;

(D) Provisions for preventing or managing run-on;

(E) How accumulated liquids can be analyzed and removed to prevent overflow; and

(F) A description of the building or other protective covering for EHW containers;

(ii) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with WAC 173-303-630 (7)(c), including:

(A) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and

(B) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;

(iii) A description of the procedures for labeling containers;

(iv) Sketches, drawings, or data demonstrating compliance with WAC 173-303-630(8) (location of buffer zone and containers holding ignitable or reactive wastes) and WAC 173-303-630 (9)(c) (location of incompatible wastes), where applicable; and

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(v) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with WAC 173-303-630 (9)(a) and (b), and 173-303-395 (1)(b) and (c).

(c) Specific Part B information requirements for tanks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use tanks to store or treat dangerous waste must provide the following information:

(i) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling dangerous waste of each tank system, as required under WAC 173-303-640 (2) and (3);

(ii) Dimensions and capacity of each tank;

(iii) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents);

(iv) A diagram of piping, instrumentation, and process flow for each tank system;

(v) A description of materials and equipment used to provide external corrosion protection, as required under WAC 173-303-640 (3)(a)(iii)(B);

(vi) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with WAC 173-303-640 (3)(b), (c), (d), and (e);

(vii) Detailed plans and a description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of WAC 173-303-640 (4)(a), (b), (c), (d), (e), and (f);

(viii) For tank systems for which a variance from the requirements of WAC 173-303-640(4) is sought (as provided by WAC 173-303-640 (4)(g)):

(A) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous waste or dangerous constituents into the ground water or surface water during the life of the facility; or

(B) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment.

(ix) Description of controls and practices to prevent spills and overflows, as required under WAC 173-303-640 (5)(b);

(x) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of WAC 173-303-640 (9) and (10);

(xi) A description of the marking and/or labeling of tanks; and

(xii) Tank design to prevent escape of vapors and emissions of acutely or chronically toxic (upon inhalation) EHW.

(d) Specific Part B information requirements for surface impoundments. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store, treat, or dispose of dangerous waste in surface impoundments must provide the following additional information:

(i) A list of the dangerous wastes placed or to be placed in each surface impoundment;

(ii) Detailed plans and an engineering report describing how the surface impoundment is ((~~or will be~~)) designed, and is or will be constructed, operated and maintained to meet the requirements of WAC 173-303-650(2)((~~. This submission must address the following items as specified in WAC 173-303-650(2)~~)) (j), (10), (11), and 173-303-335, addressing the following items:

(A) The liner system (except for an existing portion of a surface impoundment), including the certification required by WAC 173-303-650 (2)(a)(i)(D) for EHW management. If an exemption from the requirement for a liner is sought as provided by WAC 173-303-650 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any dangerous constituents into the ground water or surface water at any future time;

(B) Prevention of overtopping; ((~~and~~))

(C) Structural integrity of dikes;

(D) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of WAC 173-303-650 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-650 (2)(k), (l), or (m), submit appropriate information;

(E) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(F) The construction quality assurance (CQA) plan if required under WAC 173-303-335; and

(G) Proposed action leakage rate, with rationale, if required under WAC 173-303-650(10), and response action plan, if required under WAC 173-303-650(11).

(iii) ((~~If any exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-650(3), detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment, and the design of a double liner system that incorporates a leak detection system between the liners;~~)) Reserve.

(iv) A description of how each surface impoundment, including the ((~~liner and~~)) double liner system, leak detection system, cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of WAC 173-303-650 (4)(a) ((~~and~~)), (b), and (d). This information should be included in the inspection plan submitted under (a)(v) of this subsection;

(v) A certification by a qualified engineer which attests to the structural integrity of each dike, as required under WAC 173-303-650 (4)(c). For new units, the owner or operator must submit a statement by a qualified engineer that he will provide such a certification upon completion of construction in accordance with the plans and specifications;

(vi) A description of the procedure to be used for removing a surface impoundment from service, as required under WAC 173-303-650 (5)(b) and (c). This information should be included in the contingency plan submitted under (a)(vii) of this subsection;

(vii) A description of how dangerous waste residues and contaminated materials will be removed from the unit at

closure, as required under WAC 173-303-650 (6)(a)(i). For any wastes not to be removed from the unit upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-650 (6)(a)(ii) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(viii) If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of how WAC 173-303-650(7) will be complied with;

(ix) If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of how WAC 173-303-650(8) will be complied with; and

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how the surface impoundment is or will be designed to meet the requirements of WAC 173-303-650(9).

(e) Specific Part B information requirements for waste piles. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that store or treat dangerous waste in waste piles must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed in each waste pile;

(ii) If an exemption is sought to WAC 173-303-660(2), and 173-303-645 as provided by WAC 173-303-660 (1)(c), an explanation of how the standards of WAC 173-303-660 (1)(c) will be complied with;

(iii) Detailed plans and an engineering report describing how the waste pile is ((~~or will be~~)) designed, and is or will be constructed, operated, and maintained to meet the requirements of WAC 173-303-335, 173-303-660(2)((~~. This submission must address the following items as specified in WAC 173-303-660(2)~~)) (i), (11) and (12), addressing the following items:

(A)(I) The liner system (except for an existing portion of a pile) if the waste pile must meet the requirements of WAC 173-303-660(2), including the licensed engineer's certification when required by WAC 173-303-660 (2)(c). If an exemption from the requirement for a liner is sought, as provided by WAC 173-303-660 (2)(d), ((~~the owner or operator must~~)) submit detailed plans and engineering and hydrogeologic reports, as applicable, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any ((~~hazardous~~)) dangerous constituents into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of WAC 173-303-660 (2)(j). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-660 (2)(k), (l), or (m), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-660(3), and response action plan, if required under WAC 173-303-660(4);

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding units associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iv) ((~~If an exemption from WAC 173-303-645 is sought as provided by WAC 173-303-660 (3) or (4), submit detailed plans and an engineering report describing how the requirements of WAC 173-303-660 (3)(a) or (4)(a) will be complied with;~~)) Reserve.

(v) A description of how each waste pile, including the ((~~liner~~)) double liner system, leachate collection and removal system, leak detection system, cover system and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-660(5). This information should be included in the inspection plan submitted under (a)(v) of this subsection. If an exemption is sought to WAC 173-303-645 pursuant to WAC 173-303-660(4), describe in the inspection plan how the inspection requirements of WAC 173-303-660 (4)(a)(iii) will be complied with;

(vi) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;

(vii) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of WAC 173-303-660(7) will be complied with;

(viii) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how WAC 173-303-660(8) will be complied with;

(ix) A description of how dangerous waste, waste residues and contaminated materials will be removed from the waste pile at closure, as required under WAC 173-303-660 (9)(a). For any waste not to be removed from the waste pile upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665 (6)(a) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection;

(x) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a waste pile that is not enclosed (as defined in WAC 173-303-660 (1)(c)) is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-660(10).

(f) Specific Part B information requirements for incinerators. Except as WAC 173-303-670(1) provides otherwise, owners and operators of facilities that incinerate dangerous waste must fulfill the informational requirements of (f) of this subsection.

(i) When seeking an exemption under WAC 173-303-670 (1)(b) (ignitable or reactive wastes only):

(A) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is ignitable; or

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(B) Documentation that the waste is listed as a dangerous waste in WAC 173-303-080, solely because it is reactive for characteristics other than those listed in WAC 173-303-090 (7)(a)(iv) and (v), and will not be burned when other dangerous wastes are present in the combustion zone; or

(C) Documentation that the waste is a dangerous waste solely because it possesses the characteristic of ignitability, as determined by the tests for characteristics of dangerous waste under WAC 173-303-090; or

(D) Documentation that the waste is a dangerous waste solely because it possesses the reactivity characteristics listed in WAC 173-303-090 (7)(a)(i), (ii), (iii), (vi), (vii), and (viii), and that it will not be burned when other dangerous wastes are present in the combustion zone.

(ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in accordance with WAC 173-303-807.

(iii) In lieu of a trial burn, the applicant may submit the following information;

(A) An analysis of each waste or mixture of wastes to be burned including:

(I) Heating value of the waste in the form and composition in which it will be burned;

(II) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(III) An identification of any dangerous organic constituents listed in WAC 173-303-9905 or, if not listed, which cause the waste(s) to be regulated, which are present in the waste to be burned, except that the applicant need not analyze for constituents which would reasonably not be expected to be found in the waste. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified in WAC 173-303-110(3), or their equivalent;

(IV) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified in WAC 173-303-110(3); and

(V) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC's) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standards in WAC 173-303-670(4);

(B) A detailed engineering description of the incinerator, including:

(I) Manufacturer's name and model number of incinerator;

(II) Type of incinerator;

(III) Linear dimension of incinerator unit including cross sectional area of combustion chamber;

(IV) Description of auxiliary fuel system (type/feed);

(V) Capacity of prime mover;

(VI) Description of automatic waste feed cutoff system(s);

(VII) Stack gas monitoring and pollution control monitoring system;

(VIII) Nozzle and burner design;

(IX) Construction materials; and

(X) Location and description of temperature, pressure, and flow indicating devices and control devices;

(C) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data should include those items listed in (f)(iii)(A) of this subsection. This analysis should specify the principal organic dangerous constituents (PODC's) which the applicant has identified in the waste for which a permit is sought, and any differences from the PODC's in the waste for which burn data are provided;

(D) The design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available;

(E) A description of the results submitted from any previously conducted trial burn(s) including:

(I) Sampling and analysis techniques used to calculate performance standards in WAC 173-303-670(4); and

(II) Methods and results of monitoring temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity (including a statement concerning the precision and accuracy of this measurement);

(F) The expected incinerator operation information to demonstrate compliance with WAC 173-303-670 (4) and (6), including:

(I) Expected carbon monoxide (CO) level in the stack exhaust gas;

(II) Waste feed rate;

(III) Combustion zone temperature;

(IV) Indication of combustion gas velocity;

(V) Expected stack gas volume, flow rate, and temperature;

(VI) Computed residence time for waste in the combustion zone;

(VII) Expected hydrochloric acid removal efficiency;

(VIII) Expected fugitive emissions and their control procedures; and

(IX) Proposed waste feed cutoff limits based on the identified significant operating parameters;

(G) Such supplemental information as the department finds necessary to achieve the purposes of this subsection;

(H) Waste analysis data, including that submitted in (f)(iii)(A) of this subsection, sufficient to allow the department to specify as permit principal organic dangerous constituents (permit PODC's) those constituents for which destruction and removal efficiencies will be required; and

(I) Test protocols and sampling and analytical data to demonstrate the designation status under WAC 173-303-070 of:

(I) Incinerator ash residues, if any; and

(II) Residues from the air pollution control devices.

(iv) The department ((~~shall~~)) will approve a permit application without a trial burn if the department finds that:

(A) The wastes are sufficiently similar; and

(B) The incinerator units are sufficiently similar, and the data from other trial burns are adequate to specify (under WAC 173-303-670(6)) operating conditions that will ensure that the performance standards in WAC 173-303-670(4) will be met by the incinerator.

(g) Specific Part B information requirements for land treatment facilities. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that use land treatment to dispose of dangerous waste must provide the following additional information:

(i) A description of plans to conduct a treatment demonstration as required under WAC 173-303-655(3). The description must include the following information:

(A) The wastes for which the demonstration will be made and the potential dangerous constituents in the waste;

(B) The data sources to be used to make the demonstration (e.g., literature, laboratory data, field data, or operating data);

(C) Any specific laboratory or field test that will be conducted, including:

(I) The type of test (e.g., column leaching, degradation);

(II) Materials and methods, including analytical procedures;

(III) Expected time for completion; and

(IV) Characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, climatic conditions, and operating practices;

(ii) A description of a land treatment program, as required under WAC 173-303-655(2). This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

(A) The wastes to be land treated;

(B) Design measures and operating practices necessary to maximize treatment in accordance with WAC 173-303-655 (4)(a) including:

(I) Waste application method and rate;

(II) Measures to control soil pH;

(III) Enhancement of microbial or chemical reactions; and

(IV) Control of moisture content;

(C) Provisions for unsaturated zone monitoring, including:

(I) Sampling equipment, procedures, and frequency;

(II) Procedures for selecting sampling locations;

(III) Analytical procedures;

(IV) Chain of custody control;

(V) Procedures for establishing background values;

(VI) Statistical methods for interpreting results; and

(VII) The justification for any dangerous constituents recommended for selection as principal dangerous constituents, in accordance with the criteria for such selection in WAC 173-303-655 (6)(a);

(D) A list of dangerous constituents reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to WAC 173-303-300;

(E) The proposed dimensions of the treatment zone;

(iii) A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of WAC 173-303-655(4). This submission must address the following items:

(A) Control of run-on;

(B) Collection and control of run-off;

(C) Minimization of run-off of dangerous constituents from the treatment zone;

(D) Management of collection and holding facilities associated with run-on and run-off control systems;

(E) Periodic inspection of the unit. This information should be included in the inspection plan submitted under (a)(v) of this subsection; and

(F) Control of wind dispersal of particulate matter, if applicable;

(iv) If food-chain crops are to be grown in or on the treatment zone of the land treatment unit, a description of how the demonstration required under WAC 173-303-655(5) will be conducted including:

(A) Characteristics of the food-chain crop for which the demonstration will be made;

(B) Characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstration;

(C) Procedures for crop growth, sample collection, sample analysis, and data evaluation;

(D) Characteristics of the comparison crop including the location and conditions under which it was or will be grown; and

(E) If cadmium is present in the land treated waste, a description of how the requirements of WAC 173-303-655 (5)(b) will be complied with;

(v) A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining such cover during the post-closure care period, as required under WAC 173-303-655 (8)(a)(viii) and (c)(ii). This information should be included in the closure plan and, where applicable, the post-closure care plan submitted under (a)(xiii) of this subsection;

(vi) If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of how the requirements of WAC 173-303-655(9) will be complied with; and

(vii) If incompatible wastes, or incompatible wastes and materials, will be placed in or on the same treatment zone, an explanation of how WAC 173-303-655(10) will be complied with.

(viii) Where applicable, a waste management plan for Dangerous Waste Nos. F020, F021, F022, F023, F026, or F027 describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of WAC 173-303-655(12).

(h) Specific Part B information requirements for landfills. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that dispose of dangerous waste in landfills must provide the following additional information;

(i) A list of the dangerous wastes placed or to be placed in each landfill or landfill cell;

(ii) Detailed plans and an engineering report describing how the landfill is ((~~or will be~~)) designed, and is or will be constructed, operated and maintained to comply with the requirements of WAC 173-303-335, 173-303-665(2)((~~. This submission must address the following items as specified in WAC 173-303-665(2)~~)), (8) and (9) addressing the following items:

(A)(I) The liner system ((~~and leachate collection and removal system~~)) (except for an existing portion of a landfill), if the landfill must meet the requirements of WAC 173-303-665 (2)(a), including the licensed engineer's certification required by WAC 173-303-665 (2)(a)(i). If an exemption from the requirements for a liner and a leachate collection and removal system is sought, as provided by WAC 173-303-665 (2)(b), submit detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate designs and operating practices that will, in con-

junction with location aspects, prevent the migration of any dangerous constituent into the ground water or surface water at any future time;

(II) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of WAC 173-303-665 (2)(h). If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by WAC 173-303-665 (2)(j), (k) or (l), submit appropriate information;

(III) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;

(IV) The construction quality assurance (CQA) plan if required under WAC 173-303-335;

(V) Proposed action leakage rate, with rationale, if required under WAC 173-303-665(8), and response action plan, if required under 173-303-665(9);

(B) Control of run-on;

(C) Control of run-off;

(D) Management of collection and holding facilities associated with run-on and run-off control systems; and

(E) Control of wind dispersal of particulate matter, where applicable;

(iii) ((~~If an exemption from WAC 173-303-645 is sought, as provided by WAC 173-303-665(3), the owner or operator must submit detailed plans and an engineering report explaining the location of the saturated zone in relation to the landfill, the design of a double liner system that incorporates a leak detection system between the liners, and a leachate collection and removal system above the liners;~~)) Reserve.

(iv) A description of how each landfill, including the ((~~liner and~~)) double liner system, leachate collection and removal system, cover systems, and appurtenances for control for run-on and run-off will be inspected in order to meet the requirements of WAC 173-303-665(4). This information ((~~should~~)) must be included in the inspection plan submitted under (a)(v) of this subsection;

(v) Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with WAC 173-303-665 (6)(a), and a description of how each landfill will be maintained and monitored after closure in accordance with WAC 173-303-665 (6)(b) and (c). This information should be included in the closure and post-closure plans submitted under (a)(xiii) of this subsection;

(vi) If incompatible wastes, or incompatible wastes and materials will be landfilled, an explanation of how WAC 173-303-665(7) will be complied with;

(vii) A description of how each landfill will be designed and operated in order to comply with WAC 173-303-140.

(i) Specific Part B information requirements for miscellaneous units. Except as otherwise provided in WAC 173-303-680(1), owners and operators of facilities that treat, store, or dispose of dangerous waste in miscellaneous units must provide the following additional information:

(i) A detailed description of the unit being used or proposed for use, including the following:

(A) Physical characteristics, materials of construction, and dimensions of the unit;

(B) Detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of WAC 173-303-680 (2) and (3); and

(C) For disposal units, a detailed description of the plans to comply with the postclosure requirements of WAC 173-303-680(4).

(ii) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of WAC 173-303-680(2). If the applicant can demonstrate that he does not violate the environmental performance standards of WAC 173-303-680(2) and the department agrees with such demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice.

(iii) Information on the potential pathways of exposure of humans or environmental receptors to dangerous waste or dangerous constituents and on the potential magnitude and nature of such exposures.

(iv) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

(v) Any additional information determined by the department to be necessary for evaluation of compliance of the unit with the environmental performance standards of WAC 173-303-680(2).

(j) Specific Part B information requirements for process vents. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have process vents to which WAC 173-303-690 applies must provide the following additional information:

(i) For facilities that cannot install a closed-vent system and control device to comply with the provisions of WAC 173-303-690 on the effective date that the facility becomes subject to the provisions of 40 CFR Part 264 or 265 Subpart AA, an implementation schedule as specified in 40 CFR section 264.1033(a)(2).

(ii) Documentation of compliance with the process vent standards in 40 CFR section 264.1032, including:

(A) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the dangerous waste management units on a facility plot plan).

(B) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions must be made using operating parameter values (e.g., temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(C) Information and data used to determine whether or not a process vent is subject to the requirements of 40 CFR section 264.1032.

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of 40 CFR 264.1032, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR 264.1035(b)(3).

(iv) Documentation of compliance with 40 CFR 264.1033, including:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(k).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in 40 CFR 260.11) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035(b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater unless the total organic emission limits of 40 CFR 264.1032(a) for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than 95 weight percent.

(k) Specific Part B information requirements for equipment leaks. Except as otherwise provided in WAC 173-303-600(3), owners and operators of facilities that have equipment to which WAC 173-303-691 applies must provide the following additional information:

(i) For each piece of equipment to which WAC 173-303-691 applies:

(A) Equipment identification number and dangerous waste management unit identification.

(B) Approximate locations within the facility (e.g., identify the dangerous waste management unit on a facility plot plan).

(C) Type of equipment (e.g., a pump or pipeline valve).

(D) Percent by weight total organics in the dangerous waste stream at the equipment.

(E) Dangerous waste state at the equipment (e.g., gas/vapor or liquid).

(F) Method of compliance with the standard (e.g., "monthly leak detection and repair" or "equipped with dual mechanical seals").

(ii) For facilities that cannot install a closed-vent system and control device to comply with the provisions of 40 CFR Part 264 Subpart BB on the effective date that the facility becomes subject to the provisions of 40 CFR Part 264 or 265 Subpart BB, an implementation schedule as specified in 40 CFR 264.1033(a)(2).

(iii) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in 40 CFR section 264.1035(b)(3).

(iv) Documentation that demonstrates compliance with the equipment standards in 40 CFR sections 264.1052 to 264.1059. This documentation will contain the records required under 40 CFR 264.1064. The department may request further documentation before deciding if compliance has been demonstrated.

(v) Documentation to demonstrate compliance with 40 CFR section 264.1060 will include the following information:

(A) A list of all information references and sources used in preparing the documentation.

(B) Records, including the dates, of each compliance test required by 40 CFR 264.1033(j).

(C) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "ATPI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in WAC 173-303-110 (3)(g)(viii)) or other engineering texts acceptable to the department that present basic control device design information. The design analysis will address the vent stream characteristics and control device operation parameters as specified in 40 CFR 264.1035(b)(4)(iii).

(D) A statement signed and dated by the owner or operator certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the dangerous waste management unit is operating at the highest load or capacity level reasonably expected to occur.

(E) A statement signed and dated by the owner or operator certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

(l) Special Part B information requirements for drip pads.

Except as otherwise provided by WAC 173-303-600(3), owners and operators of dangerous waste treatment, storage, or disposal facilities that collect, store, or treat dangerous waste on drip pads must provide the following additional information:

(i) A list of dangerous wastes placed or to be placed on each drip pad.

(ii) If an exemption is sought to WAC 173-303-645, as provided by WAC 173-303-645(1), detailed plans and an engineering report describing how the requirements of WAC 173-303-645(1)(b) will be met.

(iii) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of WAC 173-303-675(4), including the as-built drawings and specifications. This submission must address the following items as specified in WAC 173-303-675(2):

(A) The design characteristics of the drip pad;

(B) The liner system;

(C) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of dangerous waste or accumulated liquid at the earliest practicable time;

(D) Practices designed to maintain drip pads;

(E) The associated collection system;

(F) Control of run-on to the drip pad;

(G) Control of run-off from the drip pad;

(H) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;

(I) Procedures for cleaning the drip pad at least once every seven days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned.

(J) Operating practices and procedures that will be followed to ensure that tracking of dangerous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;

(K) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and nonpressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;

(L) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;

(M) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals.

(N) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of WAC 173-303-675(4). This information should be included in the inspection plan submitted under (a)(v) of this subsection.

(O) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of WAC 173-303-675 (4)(a) through (f).

(P) A description of how dangerous waste residues and contaminated materials will be removed from the drip pad at closure, as required under WAC 173-303-675 (6)(a). For any waste not to be removed from the drip pad upon closure, the owner or operator must submit detailed plans and an engineering report describing how WAC 173-303-665(6) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under (a)(xiii) of this subsection.

(5) Construction. A person may begin physical construction of a new facility, or of new portions of an existing facility if the new portions would amount to reconstruction under interim status (WAC 173-303-805(7)), only after complying with WAC 173-303-281, submitting Part A and Part B of the permit application and receiving a final facility permit. All permit applications must be submitted at least one hundred eighty days before physical construction is expected to begin.

(6) Reapplications. Any dangerous waste facility with an effective final facility permit ((~~shall~~)) must submit a new application one hundred eighty days prior to the expiration date of the effective permit, unless the department grants a later date provided that such date will never be later than the expiration date of the effective permit.

(7) Continuation of expiring permits.

(a) When the owner/operator submits a timely application for a final facility permit and the application is determined by the department to be complete pursuant to subsection (8) of this section, the facility is allowed to continue operating under the expiring or expired permit until the effective date of the new permit.

(b) When the facility is not in compliance with the conditions of the expiring or expired permit, the department may choose to do any of the following:

(i) Initiate enforcement action based upon the permit which has been continued;

(ii) Issue a notice of intent to deny the new permit. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(iii) Issue a new permit with appropriate conditions; and/or

(iv) Take other actions authorized by this chapter.

(8) Completeness. The department ((~~shall~~)) will not issue a final facility permit before receiving a complete application, except for permits by rule or emergency permits. An application for a permit is complete when the application form and any supplemental information has been submitted to the department's satisfaction. The completeness of any application for a permit ((~~shall~~)) will be judged independently of the status of any other permit application or permit for the same facility or activity. The department may deny a permit for the active life of a dangerous waste management facility or unit before receiving a complete application for a permit.

(9) Recordkeeping. Applicants ((~~shall~~)) must keep records of all data used to complete the permit applications, and any supplemental information submitted to the department for a period of at least three years from the date the application is signed.

(10) General permit conditions. All final facility permits ((~~shall~~)) will contain general permit conditions described in WAC 173-303-810.

(11) Permit duration.

(a) Final facility permits ((~~shall~~)) will be effective for a fixed term not to exceed ten years.

(b) The department may issue any final facility permit for a duration that is less than the full allowable term.

(c) The term of a final facility permit ((~~shall~~)) will not be extended beyond ten years, unless otherwise authorized under subsection (7) of this section.

(d) Each permit for a land disposal facility may be reviewed by the department five years after the date of permit issuance or reissuance and ((~~shall~~)) will be modified as necessary, as provided in WAC 173-303-830.

(12) Grounds for termination. The following are causes for terminating a final facility permit during its term:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and the hazard can only be controlled by permit modification or termination.

(13) Grounds for denial. A permit application ((~~shall~~)) will be denied pursuant to the procedures in WAC 173-303-840 if it is determined that the proposed location and/or activity endangers public health and the environment as demonstrated by the permit applicant's failure to satisfy the performance standards of WAC 173-303-283.

(14) Permit changes. All final facility permits ((~~shall~~)) will be subject to the requirements of permit changes, WAC 173-303-830.

(15) Procedures for decision making. Issuance of final facility permits will be subject to the procedures for decision making described in WAC 173-303-840.

(16) Other requirements for final ((~~special waste and~~)) recycling facility permits. In lieu of issuing a final ((~~special waste or~~)) recycling facility permit, the department may, after providing opportunity for public comment in accordance with WAC 173-303-840, defer to a permit already issued under other statutory authority administered by the department (such as the State Water Pollution Control Act, chapter 90.48 RCW, the State Clean Air Act, chapter 70.94 RCW, etc.) which incorporates the requirements of this section, and WAC 173-303-500 through 173-303-525 for recycling facilities ((~~or WAC 173-303-550 through 173-303-560 for special waste facilities~~)).

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

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-807 Trial burns for dangerous waste incinerator final facility permits. (1) Purpose and applicability. For purposes of determining operational readiness and establishing conditions in final facility permits for dangerous waste incinerators, the department may approve trial burns. Trial burns ((~~shall~~)) will not exceed seven hundred twenty hours operating time, except that the department may extend the duration of this operational period once, up to seven hundred twenty additional hours, at the request of the owner/operator of the incinerator when good cause is shown. The permit may be modified to reflect the extension according to WAC 173-303-830(4). The procedures for requesting and approving trial burns are described in:

(a) Subsection (10) of this section for existing incinerators with interim status permits; and

(b) Subsection (11) of this section for new incinerators and for incinerators with final facility permits in which the owner/operator wishes to burn new wastes not currently included in the permit.

(2) Trial burn plan. The trial burn must be conducted in accordance with a trial burn plan prepared by the applicant and approved by the department. The trial burn plan will then become a condition of the permit and will include the following information:

(a) An analysis of each waste or mixture of waste to be burned which includes:

(i) Heating value of the waste in the form and composition in which it will be burned;

(ii) Viscosity (if applicable), or description of physical form of the waste, and specific gravity of the waste;

(iii) An analysis identifying any dangerous organic constituents listed in WAC 173-303-9905, and any other dangerous constituents which, although not listed, caused the waste to be regulated as a dangerous waste, which are reasonably expected to be present in the waste to be burned. The constituents excluded from analysis must be identified and the basis for their exclusion stated. The waste analysis must rely on analytical techniques specified or referenced in WAC 173-303-110, or their equivalent;

(iv) An approximate quantification of the dangerous constituents identified in the waste, within the precision produced by the analytical methods specified or referenced in WAC 173-303-110; and

(v) A quantification of those dangerous constituents in the waste which may be designated as principal organic dangerous constituents (PODC) based on data submitted from other trial or operational burns which demonstrate compliance with the performance standard in WAC 173-303-670(4);

(b) A detailed engineering description of the incinerator for which the trial burn permit is sought including:

(i) Manufacturer's name and model number of incinerator (if available);

(ii) Type of incinerator;

(iii) Linear dimensions of the incinerator unit including the cross sectional area of the combustion chamber;

(iv) Description of the auxiliary fuel system (type/feed);

(v) Capacity of the prime air mover;

(vi) Description of automatic waste feed cutoff system(s);

(vii) Stack gas monitoring and pollution control equipment;

(viii) Nozzle and burner design;

(ix) Construction materials; and

(x) Location and description of temperature, pressure, and flow indicating and control devices;

(c) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis;

(d) A detailed test schedule for each waste for which the trial burn is planned including date(s), duration, quantity of waste to be burned, and other factors relevant to the department's decision under subsection (5) of this section;

(e) A detailed test protocol, including, for each waste identified, the ranges of temperature, waste feed rate, air feed rate, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator;

(f) A description of, and planned operating conditions for, any emission control equipment which will be used;

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(g) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction;

(h) A detailed test protocol to sample and analyze the following for designation under WAC 173-303-070:

(i) Any incinerator ash residue collected in the incinerator; and

(ii) Any residues collected in the air pollution control devices; and

(i) Such other information as the department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this section.

(3) Additional information required. The department, in reviewing the trial burn plan, ((~~shall~~)) will evaluate the adequacy of the information provided and may require the applicant to supplement this information, if necessary, to achieve the purposes of this section.

(4) Trial PODCs. Based on the waste analysis data in the trial burn plan, the department will specify as trial principal organic dangerous constituents (trial PODCs) those constituents for which destruction and removal efficiencies must be calculated during the trial burn. These trial PODCs will be specified by the department based on its estimate of the difficulty of incineration of the constituents identified in the waste analysis, the concentration or mass in the waste feed, and the dangerous waste constituent or constituents identified in WAC 173-303-9905, or identified as causing the waste to be regulated as a dangerous waste.

(5) Approval of the plan. The department ((~~shall~~)) will approve a trial burn plan if it finds that:

(a) The trial burn is likely to determine whether the incinerator performance standard required by WAC 173-303-670(4) can be met;

(b) The trial burn itself will not present an imminent hazard to public health or the environment;

(c) The trial burn will help the department to determine operating requirements to be specified under WAC 173-303-670(6); and

(d) The information sought in (a), (b), and (c) of this subsection cannot reasonably be developed through other means.

(6) Trial burns. During each approved trial burn (or as soon after the burn as is practicable), the applicant must make the following determinations:

(a) A quantitative analysis of the trial PODCs in the waste feed to the incinerator;

(b) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial PODCs, O_2, hydrogen chloride (HCl), carbon monoxide (CO) and dangerous combustion byproducts, including the total mass emission rate of byproducts as a percent of the total mass feed rate of PODCs fed to the incinerator;

(c) A quantitative analysis of the scrubber water (if any), ash residues, and other residues, for the purpose of estimating the fate of the trial PODCs and whether they are designated according to WAC 173-303-070;

(d) A total mass balance of the trial PODCs in the waste;

(e) A computation of destruction and removal efficiency (DRE), in accordance with the DRE formula specified in WAC 173-303-670 (4)(a);

(f) If the HCl emission rate exceeds 1.8 kilograms of HCl per hour (4 pounds per hour), a computation of HCl removal efficiency in accordance with WAC 173-303-670 (4)(c)(i);

(g) A computation of particulate emissions, in accordance with WAC 173-303-670 (4)(c)(ii);

(h) An identification of sources of fugitive emissions and their means of control;

(i) A measurement of average, maximum, and minimum temperatures, and combustion gas velocity;

(j) A continuous measurement of carbon monoxide in the exhaust gas;

(k) An identification of any existing air emission standards where a state or local air pollution control authority has established emission standards and such standards are applicable to the incinerator; and

(l) Such other information as the department may specify as necessary to ensure that the trial burn will determine compliance with the performance standard of WAC 173-303-670(4), and to establish the operating conditions required by WAC 173-303-670(6).

(7) Certification. The applicant ((~~shall~~)) must submit to the department a certification that the trial burn has been carried out in accordance with the approved trial burn plan, and must submit the results of all determinations required by subsection (6) of this section. This submission ((~~shall~~)) must be made within thirty days of the completion of the trial burn, or later if approved by the department.

(8) Submission of data. All data collected during any trial burn must be submitted to the department following the completion of the trial burn.

(9) Signatures required. All submissions required under this section ((~~shall~~)) must be certified on behalf of the applicant by the signature of a person authorized to sign a permit application under WAC 173-303-810(12).

(10) Existing incinerators with interim status permits.

(a) The owner/operator of an existing incinerator currently operating under an interim status permit may, when required by the department (or when he chooses) to apply for a final facility permit, request the department to approve of a trial burn. The trial burn may be requested for the purposes of determining feasibility of compliance with the performance standards of WAC 173-303-670(4) and the operating conditions of WAC 173-303-670(6). If a trial burn is requested, the owner/operator ((~~shall~~)) must prepare and submit a trial burn plan and, upon approval by the department, perform a trial burn in accordance with subsections (2) through (9) of this section.

(b) If the department approves the trial burn, it ((~~shall~~)) will issue a notice of interim status modification granting such approval and specifying the conditions applicable to the trial burn. The notice of modification ((~~shall~~)) will be a condition of the interim status permit. Note: The national emission standards for hazardous air pollutants may require review for a notice of construction. Owners and operators should consult chapter 173-400 WAC or local air pollution control agency regulations for applicability.

(c) If the trial burn is approved before submitting a final facility permit application, the owner/operator ((~~shall~~)) must complete the trial burn and submit the information described in subsection (6) of this section, with Part B of the permit application. If completion of this process conflicts with the

date set for submission of Part B of the final facility permit application, the owner/operator must contact the department to extend the date for submitting the Part B or the trial burn results. If the applicant submits a trial burn plan with Part B of the final facility permit application, the department will specify in the notice of interim status modification issued under (b) of this subsection, a time period for conducting the trial burn and submitting the results. Trial burn results must be submitted prior to the issuance of the permit.

(11) New incinerators and new wastes.

(a)(i) The owner/operator of a new incinerator may submit with Part B of a final facility permit application a request for approval of a trial burn. This request ((~~shall~~)) must include a statement of why the trial burn is desirable, and a trial burn plan prepared in accordance with subsection (2) of this section.

(ii) The department ((~~shall~~)) will proceed to issue a final facility permit in accordance with WAC 173-303-806. The permit ((~~shall~~)) will include the trial burn plan, and ((~~shall~~)) will establish operating conditions for the trial burn including but not limited to those described in WAC 173-303-670(6). The time period for conducting the trial burn and submitting the results ((~~shall~~)) will also be specified in the permit.

(iii) After the trial burn has been completed and the results submitted to the department, the final facility permit ((~~shall~~)) will be modified in accordance with WAC 173-303-830(4) to establish the final operating requirements and performance standards for the incinerator.

(b) The owner/operator of an incinerator with a final facility permit who wishes to burn new wastes not currently included in his permit may request approval of a trial burn for the new wastes. The request and approval ((~~shall~~)) will be handled in the same way as described in (a) of this subsection, except that in lieu of issuing an entirely new final facility permit the department will modify the existing final facility permit in accordance with WAC 173-303-830.

AMENDATORY SECTION (Amending Order 90-42, filed 3/7/91, effective 4/7/91)

WAC 173-303-808 Demonstrations for dangerous waste land treatment final facility permits. (1) Purpose and applicability. This section is applicable to the owner/operator of a land treatment facility who must demonstrate that his proposed treatment will be successful. The purpose of this section is to allow the department to issue a land treatment demonstration permit.

(2) Permit issuance. The department may issue a land treatment demonstration permit either in advance of or as part of a final facility permit so that the owner/operator of a land treatment facility can make the demonstration required in WAC 173-303-655(3). If issued in advance of the final facility permit, the land treatment demonstration permit ((~~shall~~)) will be issued as described in subsection (3) of this section, as a demonstration permit only. If issued as part of the final facility permit, the land treatment demonstration and final facility permit ((~~shall~~)) will be issued as described in subsection (4) of this section, as a phased permit. The determination for which procedure to follow will be made by the department based on the information submitted by the owner/operator in Part B of the final facility permit application.

(3) Demonstration permit only.

(a) If the department finds that the Part B does not contain enough information regarding the proposed treatment to allow the department to establish permit conditions necessary for compliance with all requirements of WAC 173-303-655, it may issue a land treatment demonstration permit only. The demonstration permit will be issued in accordance with the decision-making procedures of WAC 173-303-840. The demonstration permit may be issued either as a treatment or disposal permit, will cover only the field test or laboratory analyses, ((~~shall~~)) will contain only those requirements necessary to meet the standards in WAC 173-303-655(3), and ((~~shall~~)) will provide a specific time period for the demonstration. The department may extend the demonstration period as a modification (or minor modification, if applicable) to the demonstration permit.

(b) Within thirty days (unless the department approves a later date) of the end of the treatment demonstration, the owner/operator ((~~shall~~)) must submit a revised Part B to the department containing the results of the field tests or laboratory analyses and all data developed during the demonstration period. The department ((~~shall~~)) will then use the information and Part B to determine whether or not there is adequate information to issue a final facility permit which will incorporate conditions sufficient to provide compliance with all requirements of WAC 173-303-655. If the information is adequate, the department will proceed under WAC 173-303-806 to issue a final facility permit. If the information is not adequate, the department may, as the situation warrants, either issue a modification to the demonstration permit in accordance with the procedures of subsection (3)(a) of this section, or deny the final facility permit application.

(4) Phased permit.

(a) The department may issue a two-phase final facility permit if it finds that, based on information submitted in Part B of the permit application, substantial (although incomplete and inconclusive) information exists upon which to base the issuance of a final facility permit. The phased permit will be issued in the same manner as a final facility permit under WAC 173-303-806, except that it ((~~shall~~)) will contain a first phase for making a land treatment demonstration, and a second phase (to become effective after completion of the first phase) for establishing conditions for operation of the land treatment facility.

(b) If the department finds that a phased permit may be issued, it will establish, as requirements in the first phase of the facility permit, conditions for conducting the field tests or laboratory analyses. These permit conditions will include design and operating parameters (including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone), monitoring procedures, post-demonstration cleanup activities, and any other conditions which the department finds may be necessary under WAC 173-303-655 (3)(c). The department will include conditions in the second phase of the facility permit to attempt to meet all WAC 173-303-655 requirements pertaining to unit design, construction, operation, and maintenance. The department will establish these conditions in the second phase of the permit based upon the substantial but incomplete or inconclusive information contained in the Part B application.

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(i) The first phase of the permit will be effective as provided in WAC 173-303-840 (8)(b).

(ii) The second phase of the permit will be effective as provided in (d) of this subsection.

(c) When the owner or operator who has been issued a two-phase permit has completed the treatment demonstration, he must submit to the department a certification, signed by a person authorized to sign a permit application or report under WAC 173-303-810(12), that the field tests or laboratory analyses have been carried out in accordance with the conditions specified in phase one of the permit for conducting such tests or analyses. The owner or operator must also submit all data collected during the field tests or laboratory analyses within thirty days of completion of those tests or analyses unless the department approves a later date.

(d) If the department determines that the results of the field tests or laboratory analyses meet the requirements of WAC 173-303-655(3), it will modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with WAC 173-303-655, based upon the results of the field tests or laboratory analyses.

(i) This permit modification may proceed under WAC 173-303-830(4) or otherwise will proceed as a modification under WAC 173-303-830 (3)(a)(ii). If such modifications are necessary, the second phase of the permit will become effective only after those modifications have been made.

(ii) If no modifications of the second phase of the permit are necessary, the department will give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of the final decision on the second phase of the permit. The second phase of the permit then will become effective as specified in WAC 173-303-840 (8)(b).

(iii) ((~~If modifications under WAC 173-303-830(3) are necessary, the second phase of the permit will become effective only after those modifications have been made.~~)) Reserve.

(e) If the department determines that the results of the field tests or laboratory analyses do not meet the requirements of WAC 173-303-655(3), the second phase of the permit will not become effective, and the department will, as the situation warrants, either:

(i) Modify the permit according to WAC 173-303-830(3) to allow for additional field tests or laboratory analyses; or

(ii) Proceed to terminate the permit according to WAC 173-303-840.

AMENDATORY SECTION (Amending Order DE-87-4, filed 6/26/87)

WAC 173-303-809 Research, development and demonstration permits. (1) The department may issue a research, development, and demonstration permit for any dangerous waste treatment facility which proposes to utilize an innovative and experimental dangerous waste treatment technology or process for which permit standards for such experimental activity have not been promulgated under WAC 173-303-500 through ((~~173-303-670~~)) 173-303-695. Any such permit ((~~shall~~)) will include such terms and conditions as will assure protection of human health and the environment. Such permits:

(a) ((~~Shall~~)) Will provide for the construction of such facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in subsection (4) of this section; and

(b) ((~~Shall~~)) Will provide for the receipt and treatment by the facility of only those types and quantities of dangerous waste which the department deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of such technology or process on human health and the environment; and

(c) ((~~Shall~~)) Will include such requirements as the department deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and such requirements as the department deems necessary regarding testing and providing of information to the department with respect to the operation of the facility.

(2) For the purpose of expediting review and issuance of permits under this section, the department may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in WAC 173-303-800 through 173-303-840 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

(3) The department may order an immediate termination of all operations at the facility at any time ((~~he~~)) it determines that termination is necessary to protect human health and the environment.

(4) Any permit issued under this section may be renewed not more than three times. Each such renewal ((~~shall~~)) will be for a period of not more than one year.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-810 General permit conditions. (1) Purpose and applicability. This section sets forth the general permit conditions that are applicable to all permits, except interim status permits and permits by rule, to assure compliance with this chapter. If the conditions of this section are incorporated in a permit by reference, a specific citation to this section must be given in the permit.

(2) Duty to comply. The permittee must comply with all conditions of his permit. Any permit noncompliance constitutes a violation and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee need not comply with the conditions of his permit to the extent and for the duration such noncompliance is authorized in an emergency permit.

(3) Duty to reapply. If the permittee wishes to continue an activity regulated by the permit after its expiration date, the permittee must apply for and obtain a new permit.

(4) Duty to halt or reduce activity. A permittee who has not complied with his permit, and who subsequently is subject to enforcement actions, may not argue that it would have been necessary to halt or reduce the permitted activities

in order to maintain compliance with the conditions of the permit.

(5) Duty to mitigate. The permittee ((~~shall~~)) must take all steps required by the department to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

(6) Proper operation and maintenance. The permittee ((~~shall~~)) must at all times properly operate and maintain all facilities and systems of treatment and control which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(7) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, notification of planned changes, or anticipated noncompliance, does not stay any permit condition.

(8) Effect of a permit.

(a) Compliance with a final facility permit during its term constitutes compliance for the purpose of enforcement with chapter 173-303 WAC except for permit modifications and those requirements not included in the permit which:

(i) Become effective by statute((~~, or which~~));

(ii) Are promulgated under 40 CFR Part 268 restricting the placement of dangerous waste in or on the land; or

(iii) Are promulgated under WAC 173-303-650 through 173-303-665 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of WAC 173-303-830 Class *1 permit modifications.

(b) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(c) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

(9) Duty to provide information. The permittee ((~~shall~~)) must furnish to the department, within a reasonable time, any information which it may request to determine whether cause exists for modifying, revoking and reissuing, or terminating a permit, or to determine compliance with a permit. The permittee ((~~shall~~)) must also furnish to the department, upon request, copies of records required to be kept by the permit.

(10) Inspection and entry. The permittee ((~~shall~~)) must allow representatives of the department, upon the presentation of proper credentials, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by chapter 173-303 WAC, any substances or parameters at any location.

(11) Monitoring and monitoring records.

(a) All permits ((~~shall~~)) will specify:

(i) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods; and

(ii) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(b) Samples and measurements taken for the purpose of monitoring ((~~shall~~)) must be representative of the monitored activity.

(c) The permittee ((~~shall~~)) must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the department at any time.

(d) Records of monitoring information ((~~shall~~)) must include:

(i) The date, exact place, and time of sampling or measurements;

(ii) The individual(s) who performed the sampling or measurements;

(iii) The date(s) analyses were performed;

(iv) The individual(s) who performed the analyses;

(v) The analytical techniques or methods used; and

(vi) The results of such analyses.

(e) The permittee ((~~shall~~)) must maintain all records of ground water quality and ground water surface elevations for the active life of the facility, and for the post-closure period as well.

(12) Signatory requirement. All applications, reports, or information submitted to the department ((~~shall~~)) must be signed in accordance with this subsection and ((~~shall~~)) must be certified according to subsection (13) of this section.

(a) Applications. When a dangerous waste facility is owned by one person, but is operated by another person, then the operator ((~~shall~~)) will be the permit applicant and responsible for developing the permit application and all accompanying materials, except that the owner must also sign and certify the permit application. Permit applications ((~~shall~~)) will be signed as follows:

(i) For a corporation: By a responsible corporate officer. For the purposes of this subsection, a responsible corporate officer means:

(A) A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

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(B) The manager of one or more manufacturing, production or operating facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(ii) For a partnership or sole proprietorship: By a general partner or the proprietor, respectively; or

(iii) For a municipality, state, federal, or other public agency: By either a principal executive officer or ranking elected official. For purposes of this subsection, a principal executive officer of a federal agency includes:

(A) The chief executive officer of the agency; or

(B) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(b) Reports. All reports required by permits and other information requested by the department ((~~shall~~)) will be signed by a person described in (a) of this subsection, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(i) The authorization is made in writing by a person described in (a) of this subsection;

(ii) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(iii) The written authorization is submitted to the department.

(c) Changes to authorization. If an authorization under (b) of this subsection is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of (b) of this subsection must be submitted to the department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(13) Certification.

(a) Except as provided in (b) of this subsection, any person signing the documents required under (a) or (b) of subsection (12) of this section ((~~shall~~)) will make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(b) When a dangerous waste facility is owned by one person, but is operated by another person, then the permit application must be certified as follows:

(i) The operator must make the certification described under (a) of this subsection; and

(ii) The owner must make the following certification:

"I certify under penalty of law that I own the real property described in, and am aware of the contents of, this permit application, and that I have received a copy of this application. As owner of the real property, I understand that I am responsible for complying with any requirements of chapter 173-303 WAC with which only I am able to comply, and that there are significant penalties for failure to comply with such requirements."

(14) Reporting. The following reports ((~~shall~~)) must be provided:

(a) Planned changes. The permittee ((~~shall~~)) must give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. For a new TSD facility and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the new or modified portion of the facility until:

(i) The permittee has submitted to the department by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit;

(Note: In certifying construction or modification, the independent qualified registered professional engineer is responsible only for certifying those portions of the facility which are identified in chapter 173-303 WAC as specifically requiring certification by an independent registered professional engineer.) and either

(ii) The department has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

(iii) Within fifteen days of the date of submission of the letter, the permittee has not received notice from the department of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of dangerous waste.

(b) Anticipated noncompliance. The permittee ((~~shall~~)) must give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of dangerous waste; and for a facility being modified, the permittee may not treat, store, or dispose of dangerous waste in the modified portion of the facility except as provided in WAC 173-303-830(4).

(c) Transfers. The permit is not transferable to any person except after notice to the department. The department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary.

(d) Monitoring reports. Monitoring results (including monitoring of the facility's impacts as required by the applicable sections of this chapter) ((~~shall~~)) will be reported at the intervals specified elsewhere in the permit.

(e) Compliance schedules. Reports of permit compliance or noncompliance or any progress reports on interim and final permit requirements contained in any compliance schedule ((~~shall~~)) must be submitted no later than fourteen days following each scheduled date.

(f) Immediate reporting. The permittee ((~~shall~~)) must immediately report any noncompliance which may endanger health or the environment. Information ((~~shall~~)) must be provided orally to the department as soon as the permittee

becomes aware of the circumstances. A written submission ((~~shall~~)) must also be provided within five days of the time the permittee becomes aware of the circumstances provided that the department may waive the written submission requirement in favor of a written report, to be submitted within fifteen days. The written submission ((~~shall~~)) must contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Information which must be reported immediately ((~~shall~~)) will include:

(i) Release of dangerous waste that may cause an endangerment to drinking water supplies or ground or surface waters;

(ii) Any information of a release or discharge of dangerous waste, fire, or explosion from the permitted facility which could threaten the environment or human health outside the facility;

(iii) The following description of any such occurrence:

(A) Name, address, and telephone number of the owner or operator;

(B) Name, address, and telephone number of the facility;

(C) Date, time, and type of incident;

(D) Name and quantity of material(s) involved;

(E) The extent of injuries, if any;

(F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

(G) Estimated quantity and disposition of recovered material that resulted from the incident.

(g) Other noncompliance. The permittee ((~~shall~~)) must report all instances of noncompliance not reported under (d), (e), and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in (f) of this subsection.

(h) Other information. Where the permittee becomes aware that he failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the department, he ((~~shall~~)) must promptly submit this information.

(i) Other reports. In addition, the following reports are required when appropriate:

(i) Manifest discrepancy report as required by WAC 173-303-370(4);

(ii) Unmanifested waste report as required by WAC 173-303-390(1); and

(iii) Annual report as required by WAC 173-303-390(2).

(15) Confidentiality.

(a) Information submitted by the owner/operator of a facility identified as confidential will be treated in accordance with chapter 42.17 RCW and RCW 43.21A.160.

(b) Proprietary information can be held confidential if ((~~the owner/operator indicates to the department the degree of harm if the information is made to the public~~)):

(i) The processes are unique to the owner/operator's business or the owner/operator's competitive position may be adversely affected if the information is released to the public or to a competitor; and

(ii) The director determines that granting the owner/operator's request is not detrimental to the public interest and is in accord with the policies and purposes of chapter 43.21A RCW.

(c) Claims of confidentiality for permit application information must be substantiated at the time the application is submitted and in the manner prescribed in the application instructions. Claims of confidentiality for the name and address of any permit applicant will be denied.

(d) If a submitter does not provide substantiation, the department will notify the owner/operator by certified mail of the requirement to do so. If the department does not receive the substantiation within ten days after the submitter receives the notice, the department ((~~shall~~)) will place the unsubstantiated information in the public file.

(e) The department will determine if the owner/operator's request meets the confidential information criteria.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-830 Permit changes. (1) Purpose and applicability. This section describes the types of permit changes that may be made to all permits issued by the department. This section does not apply to permits by rule or interim status permits.

(2) Transfer of permits.

(a) A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under (b) of this subsection or subsection (3) of this section) to identify the new permittee and incorporate such other requirements as may be necessary under the appropriate act.

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the department in accordance with subsection (4) of this section. The new owner or operator must submit a revised permit application no later than ninety days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the department. When a transfer of ownership or operational control occurs, the old owner or operator ((~~shall~~)) must comply with the requirements of WAC 173-303-620 (Financial requirements) until the new owner or operator has demonstrated that he or she is complying with the financial requirements. The new owner or operator must demonstrate compliance with the financial requirements within six months of the date of the change of ownership or operational control of the facility. Upon demonstration to the department by the new owner or operator of compliance with the financial requirements, the department ((~~shall~~)) will notify the old owner or operator that he or she no longer needs to comply with the financial requirements as of the date of demonstration.

(3) Modification or revocation and reissuance of permits. When the department receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for revocation and reissuance, or conducts a review of the permit file), the department may determine whether or not one or more of the causes listed in (a) and (b) of this

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subsection for modification or revocation and reissuance or both exist. If cause exists, the department may modify or revoke and reissue the permit accordingly, subject to the limitations of (c) of this subsection, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under this subsection, the department ((~~shall~~)) will not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the department ((~~shall~~)) will approve or deny the request according to the procedures of subsection (4) of this section. Otherwise, a draft permit must be prepared and public review provided in accordance with WAC 173-303-840.

(a) Causes for modification. The following are causes for modification but not revocation and reissuance of permits, unless agreed to or requested by the permittee:

(i) Alterations. There are material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit;

(ii) Information. Permits may be modified during their terms if the department receives information that was not available at the time of permit issuance and which would have justified the application of different permit conditions at the time of issuance;

(iii) New statutory requirements or regulations. The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause as follows:

(A) The department may modify the permit when the standards or regulations on which the permit was based have been changed by statute or amended standards or regulations.

(B) Permittee may request modification when:

(I) The permit condition requested to be modified was based on an effective regulation; and

(II) The department has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and either

a. The department decides to modify the permit because there would be a potential threat to public health or the environment if the permit does not incorporate the requirements of the amended regulation; or

b. A permittee requests modification within ninety days after the date the regulation amendments are adopted;

(iv) Compliance schedules. The department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy;

(v) Closure plans or postclosure. When modification of a closure or postclosure plan is required under WAC 173-303-610 (3) or (8);

(vi) Revocation of changes approved prior to notice of closure. After the department receives the notification of expected closure under WAC 173-303-610(3), the department may determine that previously approved changes are no longer warranted. These include:

(A) Extension of the ninety or one hundred eighty day periods under WAC 173-303-610(4);

(B) Modification of the thirty year postclosure period under WAC 173-303-610(7);

(C) Continuation of security requirements under WAC 173-303-610(7); or

(D) Permission to disturb the integrity of the containment system under WAC 173-303-610(7);

(vii) When the permittee has filed a request under WAC 173-303-620 for a variance to the level of financial responsibility or when the department demonstrates under WAC 173-303-620 that an upward adjustment of the level of financial responsibility is required;

(viii) When the corrective action program specified in the permit under WAC 173-303-645 has not brought the regulated unit into compliance with the ground water protection standard within a reasonable period of time;

(ix) To include a detection monitoring program meeting the requirements of WAC 173-303-645, when the owner or operator has been conducting a compliance monitoring program under WAC 173-303-645 or a corrective action program under WAC 173-303-645 and compliance period ends before the end of the postclosure care period for the unit;

(x) When a permit requires a compliance monitoring program under WAC 173-303-645, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the ground water protection standard;

(xi) To include conditions applicable to units at a facility that were not previously included in the facility's permit; ((~~or~~))

(xii) When a land treatment unit is not achieving complete treatment of dangerous constituents under its current permit conditions; or

(xiii) Notwithstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the department under 173-303-806 (11)(d), the department will modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in this chapter.

(b) Causes for modification or revocation and reissuance. The following are causes to modify, or alternatively, revoke and reissue a permit:

(i) Cause exists for termination under WAC 173-303-806(12) for final facility permits, and the department determines that modification or revocation and reissuance is appropriate; or

(ii) The department has received notification of a proposed transfer of the permit.

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

(4) Permit modification at the request of the permittee.

(a) Class 1 modifications.

(i) Except as provided in (a)(ii) of this subsection, the permittee may put into effect Class 1 modifications listed in Appendix I of this section under the following conditions:

(A) The permittee must notify the department concerning the modification by certified mail or other means that establish proof of delivery within seven calendar days after the change is put into effect. This notice must specify the changes being made to permit conditions or supporting documents referenced by the permit and must explain why they are necessary. Along with the notice, the permittee must provide the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(B) The permittee must send a notice of the modification to all persons on the facility mailing list, maintained by the department in accordance with WAC 173-303-840 (3)(e)(i)(D), and the appropriate units of state and local government, as specified in WAC 173-303-840 (3)(e)(i)(E). This notification must be made within ninety calendar days after the change is put into effect. For the Class 1 modifications that require prior department approval, the notification must be made within ninety calendar days after the department approves the request.

(C) Any person may request the department to review, and the department may for cause reject, any Class 1 modification. The department must inform the permittee by certified mail that a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee must comply with the original permit conditions.

(ii) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the department.

(iii) For a Class 1 permit modification, the permittee may elect to follow the procedures in (b) of this subsection for Class 2 modifications instead of the Class 1 procedures. The permittee must inform the department of this decision in the notice required in (b)(i) of this subsection.

(b) Class 2 modifications.

(i) For Class 2 modifications, listed in Appendix I of this section, the permittee must submit a modification request to the department that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 2 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the department and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the department evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, in accordance with (b)(v) of this subsection, and the name and address of a departmental contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting held in accordance with (b)(iv) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (b)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public ((~~shall~~)) will be provided sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the public notice.

(vi)(A) No later than ninety days after receipt of the notification request, the department must:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request;

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3;

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days; or

(V) Notify the permittee that he or she will decide on the request within the next thirty days.

(B) If the department notifies the permittee of a thirty-day extension for a decision, the department must, no later than one hundred twenty days after receipt of the modification request:

(I) Approve the modification request, with or without changes, and modify the permit accordingly;

(II) Deny the request; or

(III) Determine that the modification request must follow the procedures in (c) of this subsection for Class 3 modifications for the following reasons:

(AA) There is significant public concern about the proposed modification; or

(BB) The complex nature of the change requires the more extensive procedures of Class 3.

(IV) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty days.

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(C) If the department fails to make one of the decisions specified in (b)(vi)(B) of this subsection by the one hundred twentieth day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty days, without formal departmental action. The authorized activities must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400). If the department approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in (b)(vi)(A), (B), or (C) of this subsection, such action cancels the temporary or automatic authorization.

(D)(I) In the case of an automatic authorization under (b)(vi)(C) of this subsection, or a temporary authorization under (b)(vi)(A)(IV) or (B)(IV) of this subsection, if the department has not made a final approval or denial of the modification request by the date fifty days prior to the end of the temporary or automatic authorization, the permittee must within seven days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:

(AA) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and

(BB) Unless the department acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct such activities for the life of the permit.

(II) If the owner/operator fails to notify the public by the date specified in (b)(vi)(D)(I) of this subsection, the effective date of the permanent authorization will be deferred until fifty days after the owner/operator notifies the public.

(E) Except as provided in (b)(vi)(G) of this subsection, if the department does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under subsection (3) or (4) of this section. The activities authorized under this subsection (b)(vi)(E) must be conducted as described in the permit modification request and must be in compliance with all appropriate standards of 40 CFR Part 265 (as referenced by WAC 173-303-400).

(F) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the department must consider all written comments submitted during the public comment period and must respond in writing to all significant comments in his or her decision.

(G) With the written consent of the permittee, the department may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3.

(vii) The department may deny or change the terms of a Class 2 permit modification request under (b)(6)(i) through (iii) of this subsection for the following reasons:

(A) The modification request is incomplete;

(B) The requested modification does not comply with the appropriate requirements of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680 or other applicable requirements; or

(C) The conditions of the modification fail to protect human health and the environment.

(viii) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty days after the submission of the request unless the department establishes a later date for commencing construction and informs the permittee in writing before day sixty.

(c) Class 3 modifications.

(i) For Class 3 modifications listed in Appendix I of this section, the permittee must submit a modification request to the department that:

(A) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;

(B) Identifies that the modification is a Class 3 modification;

(C) Explains why the modification is needed; and

(D) Provides the applicable information required by WAC 173-303-805, 173-303-806, 173-303-807, and 173-303-808.

(ii) The permittee must send a notice of the modification request to all persons on the facility mailing list maintained by the department and to the appropriate units of state and local government as specified in WAC 173-303-840 (3)(e)(i)(D) and must publish this notice in a major local newspaper of general circulation. This notice must be mailed and published within seven days before or after the date of submission of the modification request, and the permittee must provide to the department evidence of the mailing and publication. The notice must include:

(A) Announcement of a sixty-day comment period, and a name and address of an agency contact to whom comments must be sent;

(B) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with (c)(4) of this subsection;

(C) Name and telephone number of the permittee's contact person;

(D) Name and telephone number of a departmental contact person;

(E) Location where copies of the modification request and any supporting documents can be viewed and copied; and

(F) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the department of ecology contact person."

(iii) The permittee must place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility.

(iv) The permittee must hold a public meeting no earlier than fifteen days after the publication of the notice required in (c)(ii) of this subsection and no later than fifteen days before the close of the sixty-day comment period. The meeting must be held to the extent practicable in the vicinity of the permitted facility.

(v) The public ((~~shall~~)) will be provided at least sixty days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the department of ecology contact identified in the notice.

(vi) After the conclusion of the sixty-day comment period, the department must grant or deny the permit modification request according to the permit modification procedures of WAC 173-303-840. In addition, the department must consider and respond to all significant written comments received during the sixty-day comment period.

(d) Other modifications.

(i) In the case of modifications not explicitly listed in Appendix I of this section, the permittee may submit a Class 3 modification request to the department, or he or she may request a determination by the department that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she must provide the department with the necessary information to support the requested classification.

(ii) The department ((~~shall~~)) will make the determination described in (d)(i) of this subsection as promptly as practicable. In determining the appropriate class for a specific modification, the department ((~~shall~~)) will consider the similarity of the modification to other modifications codified in Appendix I and the following criteria:

(A) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the department may require prior approval.

(B) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to:

(I) Common variations in the types and quantities of the wastes managed under the facility permit;

(II) Technological advancements; and

(III) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit.

(C) Class 3 modifications substantially alter the facility or its operation.

(e) Temporary authorizations.

(i) Upon request of the permittee, the department may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with this subsection. Temporary authorizations must have a term of not more than one hundred eighty days.

(ii)(A) The permittee may request a temporary authorization for:

(I) Any Class 2 modification meeting the criteria in (e)(iii)(B) of this subsection; and

(II) Any Class 3 modification that meets the criteria in (e)(iii)(B)(I) or (II) of this subsection; or that meets the criteria in (e)(iii)(B)(III) through (V) of this subsection and provides improved management or treatment of a dangerous waste already listed in the facility permit.

(B) The temporary authorization request must include:

(I) A description of the activities to be conducted under the temporary authorization;

(II) An explanation of why the temporary authorization is necessary; and

(III) Sufficient information to ensure compliance with the standards in WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(C) The permittee must send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the department and to appropriate units of state and local governments as specified in WAC 173-303-840 (3)(e)(i)(D). This notification must be made within seven days of submission of the authorization request.

(iii) The department ((~~shall~~)) will approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the department must find:

(A) The authorized activities are in compliance with the standards of WAC 173-303-280 through 173-303-395 and 173-303-600 through 173-303-680.

(B) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:

(I) To facilitate timely implementation of closure or corrective action activities;

(II) To allow treatment or storage in tanks ((~~or~~)), containers ((~~of restricted wastes~~)), or in containment buildings in accordance with 40 CFR Part 268;

(III) To prevent disruption of ongoing waste management activities;

(IV) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

(V) To facilitate other changes to protect human health and the environment.

(iv) A temporary authorization may be reissued for one additional term of up to one hundred eighty days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:

(A) The reissued temporary authorization constitutes the department's decision on a Class 2 permit modification in accordance with (b)(vi)(A)(IV) or (B)(IV) of this subsection; or

(B) The department determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of (c) of this subsection are conducted.

(f) Public notice and appeals of permit modification decisions.

(i) The department ((~~shall~~)) will notify persons on the facility mailing list and appropriate units of state and local government within ten days of any decision under this section to grant or deny a Class 2 or 3 permit modification request. The department ((~~shall~~)) will also notify such persons within ten days after an automatic authorization for a Class 2 modification goes into effect under (b)(vi)(C) or (E) of this subsection.

(ii) The department's decision to grant or deny a Class 2 or 3 permit modification request under this section may be

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appealed under the permit appeal procedures of WAC 173-303-845.

(iii) An automatic authorization that goes into effect under (b)(vi)(C) or (E) of this subsection may be appealed under the permit appeal procedures of WAC 173-303-845; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to WAC 173-303-845, notwithstanding the provisions of WAC 173-303-840 (8)(b).

(g) Newly ((~~listed or identified wastes~~)) regulated wastes and units.

(i) The permittee is authorized to continue to manage wastes listed or identified as dangerous under WAC 173-303-070, or to continue to manage dangerous waste in units newly regulated as dangerous waste management units, if ((~~he or she~~)):

(A) The unit was in existence as a dangerous waste facility with respect to the newly listed or identified waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;

(B) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;

(C) The permittee is in compliance with the applicable standards of 40 CFR Part 265 (as referenced in WAC 173-303-400) and Part 266 (as referenced in WAC 173-303-510);

(D) ((~~In the case of Classes 2 and 3 modifications, also submits a complete~~)) The permittee also submits a complete Class 2 or 3 permit modification request within one hundred eighty days ((~~after~~)) of the effective date of the rule listing or identifying the waste, or subjecting the unit to management standards under this chapter; and

(E) In the case of land disposal units, the permittee certifies that each such unit is in compliance with all applicable requirements of 40 CFR Part 265 for ground water monitoring and financial responsibility ((~~requirements~~)) (as referenced in WAC 173-303-400) on the date twelve months after the effective date of the rule identifying or listing the waste as dangerous, or regulating the unit as a dangerous waste management unit. If the owner or operator fails to ((~~clarify~~)) certify compliance with all these requirements, he or she ((~~shall~~)) will lose authority to operate under this section.

(ii) New wastes or units added to a facility's permit under this subsection do not constitute expansions for the purpose of the twenty-five percent capacity expansion limit for Class 2 modifications.

(h) Permit modification list. The department must maintain a list of all approved permit modifications and must publish a notice once a year in a state-wide newspaper that an updated list is available for review.

APPENDIX I

Modifications

Class

A. General Permit Provisions

1. Administrative and informational changes 1
2. Correction of typographical errors 1
3. Equipment replacement or upgrading with functionally equivalent components (e.g., pipes, valves, pumps, conveyors, controls) 1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:
a. To provide for more frequent monitoring, reporting, sampling, or maintenance 1
b. Other changes 2
5. Schedule of compliance:
a. Changes in interim compliance dates, with prior approval of the Director . . . . . [1]1
b. Extension of final compliance date 3
6. Changes in expiration date of permit to allow earlier permit termination, with prior approval of the Director . . . . . [1]1
7. Changes in ownership or operational control of a facility, provided the procedures of subsection (2)(b) of this section are followed . . . . . [1]1

B. General Facility Standards

1. Changes to waste sampling or analysis methods:
a. To conform with agency guidance or regulations 1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods . . . . . [1]1
c. To incorporate changes associated with underlying dangerous constituents in ignitable or corrosive wastes . [1]1
d. Other changes 2
2. Changes to analytical quality assurance/control plan:
a. To conform with agency guidance or regulations 1
b. Other changes 2
3. Changes in procedures for maintaining the operating record 1
4. Changes in frequency or content of inspection schedules 2
5. Changes in the training plan:
a. That affect the type or decrease the amount of training given to employees 2
b. Other changes 1
6. Contingency plan:
a. Changes in emergency procedures (i.e., spill or release response procedures) 2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed 1
c. Removal of equipment from emergency equipment list 2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan 1
7. Construction quality assurance plan:
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specification 1
b. Other changes 2

Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change ((~~shall~~)) will be reviewed under the same procedures as the permit modification.

C. Ground Water Protection

1. Changes to wells:

a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground water monitoring system 2

b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well 1

2. Changes in ground water sampling or analysis procedures or monitoring schedule, with prior approval of the Director ..... [1]1

3. Changes in statistical procedure for determining whether a statistically significant change in ground water quality between upgradient and downgradient wells has occurred, with prior approval of the Director ..... [1]1

4. Changes in point of compliance ..... [1]2

5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):

a. As specified in the ground water protection standard 3

b. As specified in the detection monitoring program 2

6. Changes to a detection monitoring program as required by WAC 173-303-645 (9)(j), unless otherwise specified in this appendix 2

7. Compliance monitoring program:

a. Addition of compliance monitoring program as required by WAC 173-303-645 (9)(h)(iv) and (10) 3

b. Changes to a compliance monitoring program as required by WAC 173-303-645 (10)(k), unless otherwise specified in this appendix 2

8. Corrective action program:

a. Addition of a corrective action program as required by WAC 173-303-645 (10)(i)(ii) and (11) 3

b. Changes to a corrective action program as required by WAC 173-303-645 (11)(h), unless otherwise specified in this appendix 2

D. Closure

1. Changes to the closure plan:

a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director ..... [1]1

b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director ..... [1]1

c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director ..... [1]1

d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director ..... [1]1

e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this appendix 2

f. Extension of the closure period to allow a landfill, surface impoundment, or land treatment unit to receive nondangerous wastes after final receipt of dangerous wastes under WAC 173-303-610 (4)(d) and (e) 2

2. Creation of a new landfill unit as part of closure 3

3. Addition of the following new units to be used temporarily for closure activities:

a. Surface impoundments 3

b. Incinerators 3

c. Waste piles that do not comply with WAC 173-303-660 (1)(c) 3

d. Waste piles that comply with WAC 173-303-660 (1)(c) 2

e. Tanks or containers (other than specified below) 2

f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director ..... [1]1

E. Post-Closure

1. Changes in name, address, or phone number of contact in post-closure plan 1

2. Extension of post-closure care period 2

3. Reduction in the post-closure care period 3

4. Changes to the expected year of final closure, where other permit conditions are not changed 1

5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure 2

F. Containers

1. Modification or addition of container units:

a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 3

b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F (1)(c) and F (4)(a) below 2

c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the department. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) ..... [1]1

2:

a. Modification of a container unit without increasing the capacity of the unit 2

b. Addition of a roof to a container unit without alteration of the containment system 1

3. Storage of different wastes in containers:

a. That require additional or different management practices from those authorized in the permit, except as provided in F(4) below 3

b. That do not require additional or different management practices from those authorized in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

4. Storage of treatment of different wastes in containers:

a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the

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standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

G. Tanks

1:

a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G (1)(c), G (1)(d), and G (1)(e) below 3

b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G (1)(d) and G (1)(e) below 2

c. Addition of a new tank that will operate for more than 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation 2

d. After prior approval of the department, addition of a new tank that will operate for up to 90 days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation . . . . . [1]1

e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), with prior approval of the department. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit 2

3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided 1

-The capacity difference is no more than 1500 gallons,

-The facility's permitted tank capacity is not increased, and

-The replacement tank meets the same conditions in the permit.

4. Modification of a tank management practice . . . 2

5. Management of different wastes in tanks:

a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in G (5)(c) below 3

b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in G (5)(d) 2

c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii). The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) . . . . . [1]1

(d) That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received waste of the same type (e.g., incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

H. Surface Impoundments

1. Modification or addition of surface impoundment units that result in increasing the facility's surface impoundment storage or treatment capacity 3

2. Replacement of a surface impoundment unit . . . 3

3. Modification of a surface impoundment unit without increasing the facility's surface impoundment storage or treatment capacity and without modifying the unit's liner, leak detection system, or leachate collection system . . . 2

4. Modification of a surface impoundment management practice 2

5. Treatment, storage, or disposal of different wastes in surface impoundments:

a. That require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 3

b. That do not require additional or different management practices or different design of the liner or leak detection system than authorized in the permit 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the surface impoundment has previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

6. Modifications of unconstructed units to comply with WAC 173-303-650 (2)(j), (10), (11), and (4)(d) *1

7. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

I. Enclosed Waste Piles. For all waste piles except those complying with WAC 173-303-660 (1)(c), modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with WAC 173-303-660 (1)(c).

1. Modification or addition of waste pile units:

a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity 3

b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity 2

2. Modification of waste pile unit without increasing the capacity of the unit 2

3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit 1

4. Modification of a waste pile management practice 2

5. Storage or treatment of different wastes in waste piles:

a. That require additional or different management practices or different design of the unit 3

b. That do not require additional or different management practices or different design of the unit 2

6. Conversion of an enclosed waste pile to a containment building unit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

J. Landfills and Unenclosed Waste Piles

1. Modification or addition of landfill units that result in increasing the facility's disposal capacity 3

2. Replacement of a landfill 3

3. Addition or modification of a liner, leachate collection system, leachate detection system, run-off control, or final cover system 3

4. Modification of a landfill unit without changing a liner, leachate collection system, leachate detection system, run-off control, or final cover system 2

5. Modification of a landfill management practice 2

6. Landfill different wastes:

a. That require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 3

b. That do not require additional or different management practices, different design of the liner, leachate collection system, or leachate detection system 2

c. That are wastes restricted from land disposal that meet the applicable treatment standards or that are treated to satisfy the standard of "use of practically available technology that yields the greatest environmental benefit" contained in 40 CFR 268.8 (a)(2)(ii), and provided that the landfill unit meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

d. That are residues from wastewater treatment or incineration, provided that disposal occurs in a landfill unit that meets the minimum technological requirements stated in 40 CFR 268.5 (h)(2), and provided further that the landfill has previously received wastes of the same type (for example, incinerator ash). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028) 1

7. Modifications of unconstructed units to comply with WAC 173-303-660 (2)(j), (11), (12), (5)(c), 173-303-665 (2)(h), (8), (4)(c), and (9). *1

8. Changes in response action plan:

a. Increase in action leakage rate 3

b. Change in a specific response reducing its frequency or effectiveness. 3

c. Other changes 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

K. Land Treatment

1. Lateral expansion of or other modification of a land treatment unit to increase areal extent 3

2. Modification of run-on control system 2

3. Modify run-off control system 3

4. Other modifications of land treatment unit component specifications or standards required in permit 2

5. Management of different wastes in land treatment units:

a. That require a change in permit operating conditions or unit design specifications 3

b. That do not require a change in permit operating conditions or unit design specifications 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

6. Modification of a land treatment unit management practice to:

a. Increase rate or change method of waste application 3

b. Decrease rate of waste application 2

7. Modification of a land treatment unit management practice to change measures of pH or moisture content, or to enhance microbial or chemical reactions 2

8. Modification of a land treatment unit management practice to grow food chain crops, to add to or replace existing permitted crops with different food chain crops, or to modify operating plans for distribution of animal feeds resulting from such crops 3

9. Modification of operating practice due to detection of releases from the land treatment unit pursuant to WAC 173-303-655 (6)(g)(ii) 3

10. Changes in the unsaturated zone monitoring system, resulting in a change to the location, depth, number of sampling points, or replace unsaturated zone monitoring devices or components of devices with devices or components that have specifications different from permit requirements 3

11. Changes in the unsaturated zone monitoring system that do not result in a change to the location, depth, number of sampling points, or that replace unsaturated zone monitoring devices or components of devices with devices or components having specifications different from permit requirements 2

12. Changes in background values for hazardous constituents in soil and soil-pore liquid 2

13. Changes in sampling, analysis, or statistical procedure 2

14. Changes in land treatment demonstration program prior to or during the demonstration 2

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15. Changes in any condition specified in the permit for a land treatment unit to reflect results of the land treatment demonstration, provided performance standards are met, and the Director's prior approval has been received 2

16. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and have received the prior approval of the Director 2

17. Changes to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, where the conditions for the second demonstration are not substantially the same as the conditions for the first demonstration 3

18. Changes in vegetative cover requirements for closure 2

L. Incinerators, Boilers, and Industrial Furnaces

1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a ((~~waste feed rate limit, or an organic chlorine feed rate limit~~)) feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The ((~~Director~~)) department will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a ((~~waste feed limit, or an organic chlorine feed rate limit~~)) feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The ((~~Director~~)) department will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 2

3. Modification of an incinerator, boiler, or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove ((~~HCl~~)) $HC1/C1_2$, metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler, or industrial furnace that could affect its capability to meet the regulatory performance standards. The ((~~Director~~)) department will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

4. Modification of an incinerator, boiler, or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The ((~~Director~~)) department may require a new trial burn to demonstrate compliance with the regulatory performance standards 2

5. Operating requirements:

a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, ((~~or~~)) oxygen concentration in the secondary combustion chamber blue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The ((~~Director~~)) department will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls 3

c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit 2

6. ((~~Incineration of~~)) Burning different wastes:

a. If the waste contains a POHC that is more difficult to ((~~incinerate~~)) burn than authorized by the permit or if ((~~incineration~~)) burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The ((~~Director~~)) department will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means 3

b. If the waste does not contain a POHC that is more difficult to ((~~incinerate~~)) burn than authorized by the permit and if ((~~incineration~~)) burning of the waste does not require compliance with different regulatory performance standards than specified in the permit 2

Note: See (g) of this subsection for modification procedures to be used for the management of newly listed or identified wastes.

7. Shakedown and trial burn:

a. Modification of the trial burn plan or any of the permit conditions applicable during the shakedown period for determining operational readiness after construction, the trial burn period, or the period immediately following the trial burn 2

b. Authorization of up to an additional 720 hours of waste ((~~incineration~~)) burning during the shakedown period for determining operational readiness after construction, with the prior approval of the ((~~Director~~)) department . . . . [1]1

c. Changes in the operating requirements set in the permit for conducting a trial burn, provided the change is minor and has received the prior approval of the ((~~Director~~)) department . . . . . [1]1

d. Changes in the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided the change is minor and has received the prior approval of the ((~~Director~~)) department . . . . . [1]1

8. Substitution of an alternate type of nondangerous fuel that is not specified in the permit 1

M. Containment Buildings

1. Modification or addition of containment building units:

a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity. 3

b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity. . . . 2
2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit. 2
3. Replacement of a containment building with a containment building that meets the same design standards provided:
a. The unit capacity is not increased. 1
b. The replacement containment building meets the same conditions in the permit. 1
4. Modification of a containment building management practice. 2
5. Storage or treatment of different wastes in containment buildings:
a. That require additional or different management practices. 3
b. That do not require additional or different management practices. 2
N. Corrective Action
1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6) 3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC 173-303-646(7) 2
3. Modification to incorporate a corrective action order issued pursuant to MTCA 3
4. Modification or amendment of a corrective action order issued pursuant to MTCA when the MTCA public participation requirements are met and order has already been incorporated by reference into the permit 1

[1] Class 1 modifications requiring prior Agency approval.

(5) Permit termination. The department ((~~shall~~)) will follow the applicable procedures in WAC 173-303-840, procedures for decision making, in terminating any permit. The following are causes for terminating a permit during its term or for denying a permit renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

(c) A determination that the permitted activity endangers public health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(6) Schedules of compliance.

(a) General. The permit may, when appropriate, specify a schedule of compliance leading to compliance with chapter 173-303 WAC.

(b) Time for compliance. Any schedules of compliance under this section ((~~shall~~)) will require compliance as soon as possible.

(c) Interim dates. If a permit establishes a schedule of compliance which exceeds one year from the date of permit issuance, the schedule ((~~shall~~)) will set forth interim requirements and the dates for their achievement as follows;

(i) The time between interim dates ((~~shall~~)) will not exceed one year; or

(ii) If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one year and is not readily divisible into stages for completion, the permit ((~~shall~~)) will specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit ((~~shall~~)) will be written to require that no later than fourteen days following each interim date and the final date of compliance, the permittee ((~~shall~~)) must notify the department in writing of its compliance or noncompliance with the interim or final requirements.

((~~M. Corrective Action~~

~~1. Approval of a corrective action management unit pursuant to WAC 173-303-646 (4), (5), and (6) . . class 1.~~

~~2. Approval of a temporary unit or time extension for a temporary unit pursuant to WAC 173-303-646(7) . . . . . class 2.~~))

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-840 Procedures for decision making.

(1) Application and completeness.

(a) The department will not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit. Permit applications must comply with the signature and certification requirements of WAC 173-303-810 (12) and (13).

(b) The department ((~~shall~~)) will review for completeness each application for a permit under this chapter. Each application for a permit should be reviewed for completeness within sixty days of its receipt. Upon completing the review, the department ((~~shall~~)) will notify the applicant in writing whether or not the application is complete. If the application is incomplete, the department ((~~shall~~)) will list the information necessary to make the application complete, and ((~~shall~~)) will specify in the notice of deficiency a date for submitting the necessary information. After the application is completed, the department may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(c) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under chapter 70.105 RCW.

(d) If the department decides that a site visit is necessary for any reason in conjunction with the processing of an application, then the department ((~~shall~~)) will notify the applicant and a date ((~~shall~~)) will be scheduled.

(e) The effective date of an application is the date on which the department notifies the applicant that the application is complete as provided in (b) of this subsection.

(2) Draft permits.

(a) A draft permit is a document prepared by the department indicating the tentative decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) When an application is complete, the department ((~~shall~~)) will tentatively decide whether to prepare a draft permit, or to deny the application.

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(c) If the department tentatively decides to deny the permit application, then the department ((~~shall~~)) will issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this subsection. If the department's final decision is that the tentative decision to deny was incorrect, then the department ((~~shall~~)) will withdraw the notice of intent to deny and proceed to prepare a draft permit under this subsection.

(d) If the department decides to prepare a draft permit, it ((~~shall~~)) will contain the following information:

(i) All conditions applicable to permits under WAC 173-303-810;

(ii) Applicable conditions under WAC 173-303-830; and

(iii) All applicable standards for storage, treatment and disposal, and other permit conditions.

(e) All draft permits must be accompanied by a fact sheet that is supported by administrative record and made available for public comment.

(f) Fact sheet; statement of basis.

(i) A fact sheet ((~~shall~~)) will be prepared for every draft permit for a major dangerous waste management facility, and for every draft permit which the department finds is the subject of wide-spread public interest or raises major issues.

(ii) The fact sheet ((~~shall~~)) will briefly set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The department ((~~shall~~)) will send this fact sheet to the applicant and, on request, to any other person.

(iii) The fact sheet ((~~shall~~)) will include, when applicable:

(A) A brief description of the type of facility or activity which is the subject of the draft permit;

(B) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, disposed, injected, emitted, or discharged;

(C) A brief summary of the basis for the draft permit conditions including supporting references;

(D) Reasons why any requested variances or alternatives to required standards do or do not appear justified; and

(E) A description of the procedures for reaching a final decision on the draft permit including:

(I) The beginning and ending dates of the comment period and the address where comments will be received;

(II) Procedures for requesting a hearing and the nature of that hearing;

(III) Any other procedures by which the public may participate in the final decision; and

(IV) Name and telephone number of a person to contact for additional information.

(iv) The department ((~~shall~~)) will prepare a statement of basis for every draft permit for which a fact sheet is not prepared. The statement of basis ((~~shall~~)) will briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons supporting the tentative decision. The statement of basis ((~~shall~~)) will be sent to the applicant and, on request, to any other person.

(3) Public notice and involvement.

(a) The department ((~~shall~~)) will give public notice that the following actions have occurred:

(i) A draft permit has been prepared or an application is tentatively being denied;

(ii) A hearing on a permit has been scheduled; or

(iii) An appeal on a permit has been filed with the pollution control hearings board.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied. A written notice of the denial ((~~shall~~)) will be given to the person who requested the permit change and to the permittee.

(c) The public notice may describe more than one permit or permit action.

(d) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application ((~~shall~~)) will allow at least forty-five days for public comment. Public notice of a public hearing ((~~shall~~)) will be given at least thirty days before the hearing.

(e) Public notice of activities described in this subsection ((~~shall~~)) will be given by the following methods:

(i) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits):

(A) The applicant;

(B) Any other agency which the department knows has issued or is required to issue a permit for the same activity or facility;

(C) Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the advisory council on historic preservation, state historic preservation officers, and other appropriate government authorities, including any affected states;

(D) Persons on the mailing list developed by:

(I) Including those who request in writing to be on the list;

(II) Soliciting persons for an area list from participants in past permit proceedings in that area; and

(III) Notifying the public of the opportunity to be put on the mailing list through periodic publications in the public press and in appropriate publications of the department;

(E) Any unit of local government having jurisdiction over the area where the facility is proposed to be located, and each state agency having any authority under state law with respect to construction or operation of such facility;

(ii) For major permits, by publication of a notice in a daily or weekly newspaper within the area affected by the facility;

(iii) For all permits, by publication of notice in a daily or weekly major local newspaper of general circulation, and local radio broadcast of the public notice; and

(iv) By any other method reasonably calculated to give notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents of the public notice.

(a) All public notices issued ((~~shall~~)) will contain the following minimum information:

(i) Name and address of the office processing the permit action for which notice is being given;

(ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(iii) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet or statement of basis, and the application;

(v) A brief description of the comment procedures and the time and place of any hearing that will be held, including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision;

(vi) And any additional information considered necessary or proper.

(b) In addition to the general public notice described in (a) of this subsection, public notice of a hearing under subsection (5) of this section ((~~shall~~)) will contain the following information:

(i) Date, time, and place of the hearing;

(ii) Reference to the date of the previous public notice relating to the permit; and

(iii) A brief description of the nature and purpose of the hearing including the applicable rules and procedures.

(c) In addition to the general public notice all persons identified in WAC 173-303-840 (3)(e)(i)(A), (B), and (C) ((~~shall~~)) will be mailed a copy of the fact sheet, the permit application (if any), and the draft permit (if any).

(d) Public comments and request for public hearings. During the public comment period any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing ((~~shall~~)) will be in writing and ((~~shall~~)) will state the nature of the issues proposed to be raised in the hearing. All comments ((~~shall~~)) will be considered in making the final decision and ((~~shall~~)) will be answered according to WAC 173-303-840(9).

(5) Public hearings.

(a) The department ((~~shall~~)) will hold a public hearing whenever, on the basis of requests, there is a significant degree of public interest in a draft permit or there is written notice of opposition and the director receives a request for a hearing during the forty-five day comment period. The department also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. Public notice of the hearing ((~~shall~~)) will be given as specified in WAC 173-303-840(3). Whenever possible, the department ((~~shall~~)) will schedule a public hearing under this subsection at a location convenient to the nearest population center to the proposed facility.

(b) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under WAC 173-303-840(3) ((~~shall~~)) will automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(c) A tape recording or written transcript of the hearing ((~~shall~~)) will be made available to the public.

(6) Obligation to raise issues and provide information during the public comment period.

(a) All persons, including applicants, who believe any condition of a draft permit is inappropriate, or that the department's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period (including any public hearing) under WAC 173-303-840(3).

(b) All supporting materials ((~~shall~~)) will be included in full and may not be incorporated by reference, unless they are already part of the administrative record in the same proceeding, or consist of state or federal statutes and regulations, documents of general applicability, or other generally available reference materials. Commenters ((~~shall~~)) must make supporting material not already included in the administrative record available to the department. A comment period longer than thirty days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this subsection. Commenters may request a longer comment period.

(7) Reopening of the public comment period. If any data, information, or arguments submitted during the public comment period, including information or arguments required under subsection (6) of this section, appear to raise substantial new questions concerning a permit, the department may take one or more of the following actions:

(a) Prepare a new draft permit, appropriately modified;

(b) Prepare a revised statement of basis, a fact sheet or revised fact sheet, and reopen the comment period; or

(c) Reopen or extend the comment period to give interested persons an opportunity to comment on the information or arguments submitted.

Comments filed during the reopened comment period ((~~shall~~)) will be limited to the substantial new questions that caused its reopening. The public notice ((~~shall~~)) will define the scope of the reopening.

(8) Issuance and effective date of permit.

(a) After the close of the public comment period under WAC 173-303-840(5) on a draft permit, the department ((~~shall~~)) will issue a final permit decision (or a decision to deny a permit for the active life of a RCRA dangerous waste facility or unit under WAC 173-303-840). The department ((~~shall~~)) will notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. For purposes of this section, a final permit means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

(b) A final permit decision ((~~shall~~)) will become effective thirty days after the service of notice of the decision, unless:

(i) A later effective date is specified in the decision; or

(ii) No comments requested a change in the draft permit, in which case the permit ((~~shall~~)) will become effective immediately upon issuance; or

(iii) Review is requested under chapter 43.21B RCW or an evidentiary hearing is requested under RCW 43.21B.160.

(9) Response to comments. At the time that any final permit is issued, the department ((~~shall~~)) will issue a response to comments. This response ((~~shall~~)) will specify which provisions, if any, of the draft permit have been

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changed in the final permit decision and the reason for the change, and briefly describe and respond to all significant comments of the draft permit raised during the public comment period or during any hearing. The response to comments shall be available to the public.

(10) Decision-making procedure for modification, revocation and reissuance, or termination of permits.

(a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in WAC 173-303-830 (3) and (4), or terminated for the reasons specified in WAC 173-303-805 or 173-303-806. All requests ((~~shall~~)) will be in writing and ((~~shall~~)) will contain facts or reasons supporting the request.

(b) If the department tentatively decides to modify or revoke and reissue a permit under WAC 173-303-830(3), it ((~~shall~~)) will prepare the draft permit under WAC 173-303-840(2), incorporating the proposed changes. The department may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the department ((~~shall~~)) will require the submission of a new application.

(c) In a permit modification under this section, only those conditions to be modified ((~~shall~~)) will be reopened when a new draft permit is prepared. All other aspects of the existing permit ((~~shall~~)) will remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee ((~~shall~~)) will comply with all conditions of the existing permit until a new final permit is reissued.

(d) "Minor modifications" as defined in WAC 173-303-830(4) are not subject to the requirements of this section.

(e) If the department tentatively decides to terminate an interim status permit under WAC 173-303-805 or a final permit under WAC 173-303-806, it ((~~shall~~)) will issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under WAC 173-303-840(2).

AMENDATORY SECTION (Amending Order 89-25, filed 10/17/89, effective 11/17/89)

WAC 173-303-902 Citizen/proponent negotiations. (1) Intent and purpose. Successful siting of dangerous waste management facilities depends on public confidence, which requires affected communities to have opportunities to meet with owners/operators of proposed dangerous waste management facilities to resolve concerns about such facilities. RCW 70.105.260 authorizes the department to specify a procedure for conflict resolution activities for dangerous waste management facility proponents, host communities, citizens and citizen groups, and to expend funds to support such activities. The purpose of this section is to set forth a procedure for negotiations between affected communities and the proponent of a facility, and the eligibility criteria for financial assistance.

(2) Applicability.

(a) This section applies to local governments and citizens potentially affected by the siting and permitting of a dangerous waste management facility, owners and operators of proposed facilities, and owners and operators of facilities for which interim or final status permit applications have been submitted to the department prior to the effective date of this section. This section also applies to existing facilities with interim or final status for which the department receives an application for expansion. This section only applies to the expanded portion of the existing facility.

(b) A modified citizen/proponent negotiations (CPN) process ((~~shall~~)) will apply to lead local governments who are also proponents of the facility.

(c) This section does not apply to owners/operators of facilities or portions of facilities applying for research, development and demonstration permits, pursuant to section 3005(g) of the Resource Conservation and Recovery Act, codified in 40 CFR Part 270.65. In addition, this section does not apply to mobile facilities for on-site cleanup at treatment, storage, or disposal facilities undergoing closure, facilities operating under an emergency permit pursuant to WAC 173-303-804, or facilities for on-site cleanup of sites under the Comprehensive Environmental Response, Compensation, and Liability Act, or chapters 70.105, 90.48 RCW, and The Model Toxics Control Act.

(3) Relationship to other legislation and administrative rules.

(a) The lead local government receiving a grant under this section, ((~~shall~~)) will comply fully with all applicable federal, state, and local laws, orders, regulations, and permits.

(b) Nothing in this section ((~~shall~~)) will influence, affect, or modify department programs, regulations, or enforcement of applicable laws relating to dangerous waste management and disposal.

(c) All grants under this section ((~~shall~~)) will be subject to all existing accounting and auditing requirements of state laws and regulations applicable to the issuance of grant funds.

(4) Definitions. As used in this section:

(a) "Citizen/proponent negotiations (CPN)" means a communication process, as specified in these regulations and associated guidelines, between the proponent of a dangerous waste management facility and potentially affected citizens, to reach an agreement when there are shared and opposing interests.

(b) "Designated zone facility" means any facility that requires an interim or final status permit, located in a land use zone designated for handling hazardous substances and hazardous waste, and is not a preempted facility as defined in this section.

(c) "Environmental impact statement (EIS)" means an environmental document prepared according to the State Environmental Policy Act (SEPA), that provides decision makers and the public with an impartial discussion of probable significant environmental impacts, reasonable alternatives, and mitigation measures that would avoid impacts, minimize adverse impacts, or enhance environmental quality.

(d) "Existing facility," as defined by WAC 173-303-281, means a facility for which an interim or final status permit

has been issued by the department pursuant to WAC 173-303-805 or 173-303-806.

(e) "Expansion," as defined by WAC 173-303-281, means the enlargement of the land surface area of an existing facility from that described in an interim status permit, the addition of a new dangerous waste management process, or an increase in the overall design capacity of existing dangerous waste management processes at a facility. However, a process or equipment change within the existing handling code (not to include "other") as defined under WAC 173-303-380 (2)(d) will not be considered a new dangerous waste management process.

(f) "Facilitator" means one who assists at a meeting or group discussion.

(g) "Grant applicant" means the lead local government requesting a citizen/proponent negotiations grant.

(h) "Lead local government" means the city or county in which all or a majority of the proposed dangerous waste management facility would be located, unless the lead local government is a proponent of the project.

(i) "Local negotiating committee" means a committee, appointed by the lead local government, whose membership consists of broad representation from city and county government, citizen groups, academia, business, industry, Indian tribes, and environmental groups potentially affected by the siting of a dangerous waste management facility.

(j) "Mediator" means a neutral person who is accepted voluntarily by opposing parties in a dispute to assist in reaching a settlement.

(k) "Notice of intent," as specified in WAC 173-303-281, means the notice provided by the owner/operator of a facility to the department, local communities, and the public stating that the siting of a dangerous waste management facility, or the expansion of an existing facility, is being considered.

(l) "Neutral convener" means a nonpartisan person hired by the lead local government to convene and preside over the official public meeting.

(m) "Preempted facility" means any facility that includes as a significant part of its activities any of the following operations: (i) Landfill, (ii) incineration, (iii) land treatment, (iv) surface impoundment to be closed as a landfill, or (v) waste pile to be closed as a landfill.

Local jurisdictions who fail to establish designated land use zones for handling hazardous substances and hazardous waste within eighteen months after the enactment of siting criteria in accordance with RCW 70.105.210 ((~~shall~~)) will be subject to preemptive provisions until such time as zone designations are completed and approved by the department.

(n) "Potentially affected area" means the area within a twenty-mile radius of a proposed dangerous waste management facility or a proposed expansion to an existing facility or, any area of impact larger or smaller than the twenty-mile radius as determined by the department.

(o) "Proponent" means any person applying to the department for a dangerous waste management facility permit or for the expansion of an existing permit under WAC 173-303-805 or 173-303-806.

(p) "Proposed facility" means a facility that does not have interim or final status on the effective date of this section, and for which the owner/operator applies for an interim or final status permit under WAC 173-303-805 or 173-303-806 after the effective date of this section.

(q) "SEPA" means the State Environmental Policy Act, chapter 43.21C RCW, and SEPA rules, chapter 197-11 WAC.

(5) Citizen/proponent negotiations procedures.

(a) Notice of intent. A proponent for a dangerous waste management facility must apply to the department for a dangerous waste management facility permit or for the expansion of an existing permit. In compliance with WAC 173-303-281, the proponent ((~~shall~~)) must submit a notice of intent to the department no less than one hundred fifty days prior to filing an application for a permit or permit revision.

(b) Notice letter.

(i) Within fourteen days of receipt of the notice of intent, the department ((~~shall~~)) will send, by registered mail, a copy of the notice of intent, a copy of the CPN regulation, associated guidelines, and a CPN grant application to the elected officials of the lead local government and all local governments within the potentially affected area.

(ii) The notice letter will alert all communities within the potentially affected area that a notice of intent to file was submitted to the department, the availability of a CPN grant, the procedures for applying for a CPN grant, and the procedures for conducting the CPN process.

(iii) Within thirty days of the effective date of this section, the department ((~~shall~~)) will send, by registered mail, a notice letter to all local governments potentially affected by facilities for which the department has already received a permit application. The notice letter ((~~shall~~)) will contain a copy of the CPN regulation, associated guidelines, and a CPN grant application.

(iv) If the lead local government is also a proponent of the facility, responsibility for CPN ((~~shall~~)) will be deferred to a committee comprised of representatives from all incorporated cities and towns, and all the counties in the potentially affected area. This committee ((~~shall~~)) will decide, among the government entities represented, who will be the lead local government for the purposes of applying for and administering the CPN grant and selecting members to the negotiating committee as set forth in subsection (6) of this section.

(c) Selection of the neutral convener. Within sixty days of the notice letter, the lead local government and the facility proponent ((~~shall~~)) will jointly select a neutral convener, facilitator, or mediator to organize and preside over an official public meeting, assist in selecting the local negotiating committee, and mediate citizen/proponent negotiations.

(d) The public meeting. The purpose of the public meeting ((~~shall~~)) will be:

(i) To advise local citizens within the potentially affected area of the CPN procedures, the State Environmental Policy Act (SEPA) requirements, and the dangerous waste management permit process;

(ii) To allow the proponent to present elements of the proposal;

(iii) To take public testimony on whether to agree to participate in the CPN process.

(e) Expenditures by the lead local government for the initial costs of the neutral convener and the official public meeting ((~~shall~~)) will be reimbursed by the department

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through an interagency agreement with the lead local government.

(f) Decision notice. Within forty-five days of the public meeting the lead local government ((~~shall~~)) will decide whether to proceed with the negotiations process. The lead local government ((~~shall~~)) will forward notice of that decision to the department and the proponent of the facility. Notice to the department of an affirmative decision may include a completed grant application for financial assistance. If the lead local government decides to participate in the negotiations process for preempted facilities, then the proponent ((~~shall~~)) will be required to participate. Citizen/proponent negotiations at designated zone facilities will be voluntary for both parties.

(g) Appointment of local negotiating committee. Within thirty days of the decision notice to proceed with CPN, the lead local government and local governments within the potentially affected area ((~~shall~~)) will appoint members to a local negotiating committee, as set forth in subsection (6) of this section, and mail notice of those appointments to the department and to the facility proponent.

(h) Organizational meeting. Within twenty-one days of the committee appointments, the committee ((~~shall~~)) will hold an organizational meeting to establish the committee goals, set schedules, identify tasks, discuss funding, and identify issues to research.

(i) Negotiations process. The negotiations process may occur in two stages.

(i) Stage 1. Within thirty days of the organizational meeting, the local negotiating committee, with the assistance of the neutral convener, ((~~shall~~)) will initiate negotiations and public information and education activities. The local negotiating committee ((~~shall~~)) will have one hundred twenty days, or until completion of the SEPA process, to conduct public information and education activities on dangerous waste management and dangerous waste management facilities and to negotiate emerging issues and concerns.

(ii) Stage 2. Upon completion of the SEPA process, with the assistance of the neutral convener, the local negotiating committee may continue formal negotiations. If no environmental impact statement is required as part of the SEPA process, the local negotiating committee may negotiate for up to one hundred twenty days. If an environmental impact statement is required as part of the SEPA process, negotiations may take place until one hundred twenty days after the issuance of the final environmental impact statement. Upon completion of formal negotiations, all agreements should be submitted to the department for review for applicability to the operating permit.

(iii) Negotiations should focus on the mitigation of impacts identified by persons in the affected area and those impacts identified during the SEPA process, which may include but are not limited to:

(A) Technical aspects of the facility proposal;

(B) Emergency response;

(C) Economic impacts;

(D) Management of the facility;

(E) Site characteristics;

(F) Transportation;

(G) Compliance assurance.

(iv) During each stage of the negotiations process, the committee ((~~shall~~)) must, at a minimum:

(A) Arrange public forums at key points in the negotiations to solicit input from the local community and provide public education regarding the issues and elements of the proposed facility or facility expansion.

(B) Arrange smaller community gatherings with the whole committee or subgroups of the committee to supplement the larger meetings and to provide more opportunities for discussion with community members.

(C) Meet with key community leaders to solicit information and opinion.

(D) Prepare a draft of the completed local negotiating committee report and agreements. The draft ((~~shall~~)) will be submitted for review and comment to the proponent and local county, city, and town officials who made the committee appointments.

(E) Prepare the final local negotiating committee report and agreements. Final copies ((~~shall~~)) will be submitted to the department and distributed to the proponent and local county, city, and town officials who made the committee appointments.

(v) Negotiations may be reopened upon agreement by both parties as long as a draft permit has not been issued.

(j) Agreements. Any specific agreement reached between the local negotiating committee and the proponent, deemed valid and applicable by the department, may be incorporated in the operating permit issued by the department. Any agreements not applicable to the operating permit may be implemented by the proponent and local communities through a contract or other legal means.

(6) Local negotiating committee.

(a) Appointments to the local negotiating committee ((~~shall~~)) will be made as follows:

(i) Four members ((~~shall~~)) will be appointed by the lead local government.

If the lead local government is the county, committee appointments will be made by the county executive in charter counties or the board of county commissioners. If the lead local government is an incorporated town or city, committee appointments will be made by the mayor.

(ii) The mayor of each incorporated city or town in the potentially affected area, that is not a lead local government, ((~~shall~~)) will appoint one member to the committee.

(iii) The county executive or the board of county commissioners of each county in the potentially affected area, that is not a lead local government, ((~~shall~~)) will appoint one member to the committee.

(iv) Each federally-recognized Indian tribe located in the potentially affected area ((~~shall~~)) will appoint one member to the committee.

(v) If all or the majority of a facility is located wholly within city limits, the board of county commissioners or county executive of the potentially affected county ((~~shall~~)) will appoint two members to the citizen negotiating committee. If the facility is located wholly within the county, these appointments will not be made.

(b) Local negotiating committees ((~~shall~~)) will have broad representation including but not limited to representation from academia, business and industry, citizen organizations, environmental groups, agricultural groups, health professionals, emergency response organizations, and fire districts.

(c) After the initial committee appointments are made, the neutral convener ((~~shall~~)) will assess the group representation and determine which interest groups are not represented. The committee, with the aid of the neutral convener, will then select up to four additional members to serve on the local negotiating committee. These selections ((~~shall~~)) will be made from interest groups not already represented on the negotiating committee.

(d) Elected officials will not be members of the local negotiating committee.

(7) Modified CPN procedures. Modified CPN procedures ((~~shall~~)) will apply to lead local governments who are also proponents of a dangerous waste management facility.

(a) Notice letter. Within fourteen days of the notice of intent or thirty days of the effective date of this section, the department ((~~shall~~)) will notify all local governments in the potentially affected area of applications for proposed facilities or expansions of existing facilities and of the opportunity for formal negotiations under CPN and the availability of a CPN grant.

(b) Decision notice. The local governments ((~~shall~~)) will have forty-five days to form a committee to:

(i) Determine whether they wish to participate in CPN;

(ii) Determine who will be the lead local government;

(iii) Select a neutral convener, facilitator, or mediator;

(iv) Notify the department and the proponent of those decisions; and

(v) Complete a grant application for financial assistance if a decision is made to proceed with CPN.

(c) Once the lead local government is determined, modified CPN procedures ((~~shall~~)) will follow CPN procedures set forth in subsections (5)(d) through (6)(d) of this section.

(8) Grant eligibility and eligible activities.

(a) Grant applicant eligibility and eligible activities ((~~shall~~)) will be the same for CPN and modified CPN.

(b) Grant applicant eligibility. Grants up to fifty thousand dollars ((~~shall~~)) will be awarded to the lead local government and may be renewed once during the permitting process.

(c) Eligible costs. Eligible costs include direct costs of the activities of the negotiating process. These costs include:

(i) The local committee's expenses such as travel, office space or lodging, supplies, postage, report production costs, and meeting room costs;

(ii) Neutral convener's, facilitator's, or mediator's fees and expenses;

(iii) Technical assistance for the committee; and

(iv) Other costs determined necessary by the department.

(d) Ineligible costs. Grant funds may not be used by the grant applicant to support legal actions against the department, or facility owners/operators.

(9) Grant administration and funding.

(a) A grant application package will be sent to the lead local government with the notice letter. Grant application packages include grant application deadlines, grant guidelines, and application forms.

(b) Completed grant applications will be reviewed by the department. To receive a grant offer, successful applications must include all required elements as outlined in the guidelines.

(c) The obligation of the department to make grant awards and payments is contingent upon the availability of funds through legislative appropriation and allotment, and such other conditions not reasonably foreseeable by the department rendering performance impossible. When the grant crosses over bienniums, the obligation of the department is contingent upon the appropriation of funds during the next biennium.

(d) The department ((~~shall~~)) will fund up to fifty percent of the total grant amount or up to fifty thousand dollars for citizen/proponent negotiations and the proponent of a dangerous waste management facility ((~~shall~~)) will fund up to fifty percent of the total grant amount or up to fifty thousand dollars.

(e) Disbursement of funds. The department ((~~shall~~)) will be responsible for reimbursement of all eligible CPN costs incurred. The proponent ((~~shall~~)) will enter into a contract with the department for the proponent's share of the CPN grant. The department will be responsible for all eligible CPN costs incurred before the decision notice and its share of any eligible CPN costs incurred after the decision notice, up to fifty thousand dollars. The proponent ((~~shall~~)) will be responsible for its share of all remaining eligible CPN costs incurred after the decision notice and after an executed grant award is made to the lead local government, up to fifty thousand dollars.

(f) The department, on at least a biennial basis, will determine the amount of funding available for citizen/proponent negotiation grants.

(g) All grantees ((~~shall~~)) will be held responsible for payment of salaries, consultant's fees, and other overhead costs contracted under a grant awarded to the lead local government.

(h) To the extent that the Constitution and laws of the state of Washington permit, the grantee ((~~shall~~)) will indemnify and hold the department harmless from and against, any liability for any or all injuries to persons or property arising from the negligent act or omission of the grantee arising out of a grant contract, except for such damage, claim, or liability resulting from the negligent act or omission of the department.

(i) All grants under this chapter ((~~shall~~)) will be consistent with the provisions of "Financial Guidelines for Grant Management" WDOE 80-6, May 1980, Reprinted March 1982, or subsequent guidelines adopted thereafter.

AMENDATORY SECTION (Amending Order 88-29, filed 9/6/88)

WAC 173-303-905 Response to requests for public records. RCW 42.17.320 requires that the department, when responding to requests for public records make such responses "promptly." The department often receives requests, submitted pursuant to chapter 42.17 RCW, for public records that exist because of the requirements of or actions mandated by this chapter (such public records are referred to as dangerous waste records). When the department receives requests for such dangerous waste records, then the department ((~~shall~~)) will respond promptly, as required by RCW 42.17.320, and in no event will the response occur later than twenty working days after receipt of the public request submitted pursuant to chapter 42.17 RCW.

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AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-910 Petitions. (1) General petitions.

(a) Any person may petition the department to modify or revoke any provision in this chapter. This subsection sets forth general requirements which apply to all such petitions. The remaining subsections of this section describe additional requirements for specific types of petitions.

(b) Each petition must be submitted to the department by certified mail and must include:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action, including (where appropriate) suggested regulatory language; and

(iv) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information.

(c) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice ((~~shall~~)) will be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period ((~~shall~~)) will be a minimum of forty-five days.

(d) Upon the written request of any interested person, the director may, at his discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The director may in any case decide on his own motion to hold a conference.

(e) After evaluating all public comments the department will make a final decision in accordance with RCW 34.05.330 or 34.05.240. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition and, when appropriate, initiate rule-making proceedings in accordance with RCW 34.05.330.

(2) Petitions for equivalent testing or analytical methods.

(a) Any person seeking to add a testing or analytical method to WAC 173-303-110 may petition for a regulatory amendment under this section. To be successful, the person must demonstrate to the satisfaction of the department that the proposed method is equal to or superior to the corresponding method prescribed in WAC 173-303-110, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(b) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) A full description of the proposed method, including all procedural steps and equipment used in the method;

(ii) A description of the types of wastes or waste matrices for which the proposed method may be used;

(iii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in WAC 173-303-110;

(iv) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and

(v) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(c) After receiving a petition for an equivalent testing or analytical method, the department may request any additional information on the proposed method which it may reasonably require to evaluate the proposal.

(d) If the department amends the regulations to permit use of a new testing method, the method will be incorporated in a document which will be available from the department.

(3) Petitions for exempting dangerous wastes from a particular generator.

(a) Any generator seeking to exempt his dangerous waste may petition the department for exemption from the requirements of WAC 173-303-070 through 173-303-100.

(b) To be successful, the generator must make the demonstrations required in WAC 173-303-072(3) and, where applicable, (4) and (5).

(c) Each petition must include, in addition to the information required by subsection (1) of this section:

(i) The name and address of the laboratory facility performing the sampling or tests of the waste;

(ii) The names and qualifications of the persons sampling and testing the waste;

(iii) The dates of sampling and testing;

(iv) The location of the generating facility;

(v) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(vi) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

(vii) Pertinent data on and discussion of the factors delineated in WAC 173-303-072(3) and, where applicable, (4) and (5);

(viii) A description of the methodologies and equipment used to obtain the representative samples;

(ix) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(x) A description of the tests performed (including results);

(xi) The names and model numbers of the instruments used in performing the tests and the date of the last calibration for instruments which must be calibrated according to manufacturer's instructions; and

(xii) The following statement signed by the generator of the waste or his authorized representative:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) After receiving a petition for a dangerous waste exemption, the department may request any additional information which it may reasonably require to evaluate the petition.

(e) An exemption will only apply to the waste generated by the particular generator covered by the demonstration and will not apply to waste from any other generator.

(f) The department may exempt only part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exemption.

(g) The department may (but ((~~shall~~)) will not be required to) grant a temporary exemption before making a final decision under subsection (1) of this section, whenever it finds that there is a substantial likelihood that an exemption will be finally granted.

(h) Any waste for which an exemption is sought will remain designated and be subject to the applicable requirements of this chapter until the generator of the waste is notified by the department that his waste is exempt.

(4) Petition for exclusion.

(a) Any generators seeking exclusion of a class of similar or identical wastes under WAC 173-303-071, excluded categories of waste, may petition the department for exclusion. To be successful, the generator(s) must make the demonstrations required in WAC 173-303-072(6) for all those wastes generated in the state which might be excluded pursuant to granting a petition submitted under this subsection. No class of wastes will be excluded if any of the wastes are regulated as hazardous waste under 40 CFR Part 261.

(b) Each petition for exclusion must include the information required by subsections (1) and (3)(c) of this section and any other information required by the department.

(c) After receiving a petition for exclusion, the department may request any additional information it deems necessary to evaluate the petition.

(5) Petition for designation change. The provisions of (a)(i) of this subsection do not apply to any dangerous waste which is also designated as a hazardous waste under 40 CFR Part 261 Subpart D.

(a) A generator may petition the department to change the designation of his waste as follows:

(i) A waste which is designated only for toxicity pursuant to WAC 173-303-100 but which is toxic solely because it is highly acidic or basic (i.e., due to high or low pH) may be subject only to the requirements for corrosive dangerous wastes, provided that the generator can demonstrate this fact to the department's satisfaction through information provided under (b) of this subsection; and

(ii) A waste which is designated EHW may be redesignated DW, provided that the generator can demonstrate that such redesignation is appropriate through information provided under (b) of this subsection.

(b) A petition under this subsection must include:

(i) The information required by subsections (1) and (3)(c) of this section; and

(ii) Such other information as required by the department.

(c) A designation change under this subsection will become effective only after the department has approved the change and notified the generator of such approval.

(6) Petitions to allow land disposal of a waste restricted under WAC 173-303-140.

(a) Any person seeking a land disposal restriction exemption allowed under WAC 173-303-140(6) must submit a petition to the department. The petition must include the following general information:

(i) The petitioner's name and address;

(ii) A statement of the petitioner's interest in the proposed action;

(iii) A description of the proposed action;

(iv) A statement of the need and justification for the proposed action;

(v) An identification of the specific waste and the specific land disposal unit for which the exemption is desired;

(vi) A waste analysis to describe fully the chemical and physical characteristics of the subject waste. All waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow; and

(vii) A quality assurance and quality control plan that addresses all sampling and testing aspects of the information provided in the petition.

(b) In addition to the general information requirements in subsection (a) of this section, the following specific information must be provided in the petition for individual case-by-case exemptions.

(i) Petition for land disposal exemption for treatment residuals. Petitions for exemption of treatment residuals, as allowed under WAC 173-303-140 (6)(a), must:

(A) Provide the type of waste management or treatment method applied to the waste and the rationale for selecting this method as the best achievable management method; and

(B) Document that the land disposal of the treatment residual would not pose a greater risk to public health and the environment than land disposal of the original wastes, including an analysis of the treatment residuals to fully describe their chemical and physical characteristics; and

(C) Provide the management alternatives for the treatment residuals and the factors which, if an exemption is not granted, would prevent the utilization of the best achievable management method for the original dangerous waste.

(ii) Petition for economic hardship exemption. Petitions for exemption on the basis of economic hardship, as allowed under WAC 173-303-140 (6)(b), must:

(A) Supply the current management costs and the projected management costs to comply with the requirements of WAC 173-303-140; and

(B) Provide the source of information utilized in determining the economic estimates; and

(C) Provide a discussion of how the projected compliance costs would impose an unreasonable economic burden.

(iii) Petition for leachable inorganic waste exemption. Petitions for exemption of leachable inorganic wastes, as allowed under WAC 173-303-140 (6)(c), must:

(A) Provide information demonstrating that the stabilization of the dangerous waste is less protective of public health and the environment than landfilling; or

(B) Provide a list of stabilization facilities that could accept the dangerous waste and information demonstrating that they do not have available capacity to stabilize the waste; or

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(C) Provide information describing the types of stabilization utilized which did not reduce the solubility and mobility of the dangerous waste constituents and describe any other stabilization methods that have been considered but not utilized.

(iv) Petition for organic/carbonaceous waste exemption. Petitions for exemption of organic/carbonaceous wastes, as allowed under WAC 173-303-140 (6)(d), must:

(A) Provide information demonstrating that recycling, treatment and incineration facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; or

(B) Provide information demonstrating that the alternative management methods for organic/carbonaceous waste are less protective of public health and the environment than stabilization and landfilling; or

(C) Provide information demonstrating that:

(I) Recycling and treatment facilities are unavailable for the waste, including a map marked both with the point of waste generation and the point(s) of the nearest treatment, recycling and incineration facility(s) that could manage the dangerous waste; and

(II) The organic/carbonaceous waste has a heat content less than 3,000 BTU/LB or a moisture content greater than sixty-five percent.

(c) Each petition must include the following statement signed by the petitioner or an authorized representative:

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(d) Each petition must be submitted to:

> Department of Ecology
> ((~~Hazardous Waste Land Disposal Exemption Mailstop PV-11 Olympia, WA 98504-8711~~))
> HWTR Program
> ATTN Land Disposal Exemption
> PO BOX 47600
> Olympia, WA 98504-7600

(e) After receiving a petition, the department may request any additional information that reasonably may be required to evaluate the petition and accompanying demonstration, such as a comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality. Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements.

(f)(i) The department will make a tentative decision to grant or deny the petition and give public notice of the tentative decision in writing. The notice ((~~shall~~)) will be distributed to interested persons on a mailing list developed specifically for petitions and persons expressing interest in amendments to this chapter. The public comment period ((~~shall~~)) will be a minimum of forty-five days.

(ii) Upon the written request of any interested person, the department may, at its discretion, hold a conference to consider oral comments on the action proposed in the petition. A person requesting a conference must state the issues to be raised and explain why written comments would not suffice to communicate the person's views. The department may in any case decide on its own motion to hold a conference.

(iii) After evaluating all public comments the department will make a final decision in accordance with RCW 34.04.060 or 34.04.080. The department will either deny the petition in writing (stating its reasons for denial), or grant the petition.

(g) Prior to the department's decision, the applicant is required to comply with all restrictions on land disposal under WAC 173-303-140. The department should respond to a petition within ninety days.

(h) If an exemption is granted, the department may include specific conditions as deemed necessary by the department to protect public health and the environment.

(i) If granted, the exemption will apply to land disposal of the specific restricted waste at the individual disposal unit described in the petition and accompanying demonstration. The exemption will not apply to any other restricted waste at that disposal unit, nor will it apply to that specific restricted waste at any other disposal unit.

(j) If an exemption is granted, the department may withdraw the exemption on the following bases:

(i) If there is a threat to public health and the environment; or

(ii) If there is migration of dangerous waste ((~~constitutents~~)) constituents from the land disposal unit or site for as long as the waste remains dangerous; or

(iii) If the department finds reason to believe that the information submitted in a petition is inaccurate or has been falsified such that the petition should have been denied.

(k) The term of an exemption granted under this subsection will be established by the department at the time of issuance.

(l) Any exemption granted by the department does not relieve the petitioner of his responsibilities in the management of dangerous waste under chapter 173-303 WAC.

(m) The department may (but ((~~shall~~)) will not be required to) grant a temporary exemption before making a final decision, whenever it finds that there is a substantial likelihood that an exemption will be finally granted. Temporary exemptions ((~~shall~~)) will not be subject to the procedures of (f) of this subsection. Temporary exemptions ((~~shall~~)) will not be a cause of delaying final decision making on the petition request.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-9903 Discarded chemical products list.

((~~DISCARDED CHEMICAL PRODUCTS LIST~~

~~Dangerous Waste No.~~	~~CAS No.~~	~~Substance~~	~~WDOE Hazard Designation~~	~~Reason for Designation*~~
		~~ACUTELY DANGEROUS CHEMICAL PRODUCTS~~		
~~P023~~	~~107-20-0~~	~~Acetaldehyde, chloro~~	~~EHW~~	~~B H~~
~~U001~~	~~75-07-0~~	~~Acetaldehyde~~	~~EHW~~	~~C~~
~~U034~~	~~75-87-6~~	~~Acetaldehyde, trichloro~~	~~EHW~~	~~H~~
~~P002~~	~~591-08-2~~	~~Acetamide, N-(aminothioxomethyl)~~	~~EHW~~	~~B~~
~~P057~~	~~640-19-7~~	~~Acetamide, 2-fluoro~~	~~EHW~~	~~B H~~
~~U240~~	~~94-75-7~~	~~Acetic acid, (2,4-dichlorophenoxy0, salts & esters~~	~~EHW~~	~~CH~~
~~P058~~	~~67-74-8~~	~~Acetic acid, fluoro-, sodium salt~~	~~EHW~~	~~A H~~
~~U144~~	~~301-04-2~~	~~Acetic acid, lead (2+) salt~~	~~EHW~~	~~D TC~~
~~P066~~	~~16752-77-5~~	~~Acetimidic acid, N-[(methylcar-bamoyl)oxy]thio-, methyl ester~~	~~EHW~~	~~B~~
~~U003~~	~~75-05-8~~	~~Acetonitrile~~	~~EHW~~	~~C I~~
~~P001~~	~~81-81-2~~	~~3-(alpha-Acetonyl-benzyl)-4-hydroxycoumarin and salts~~	~~EHW~~	~~A~~
~~P002~~	~~591-08-2~~	~~1-Acetyl-2-thiourea~~	~~EHW~~	~~B~~
~~U006~~	~~75-36-5~~	~~Acetyl chloride~~	~~EHW~~	~~C H O R~~
~~P003~~	~~107-02-8~~	~~Acrolein~~	~~EHW~~	~~X I~~
~~U007~~	~~79-06-1~~	~~Acrylamide~~	~~EHW~~	~~C~~
~~U008~~	~~79-10-7~~	~~Acrylic acid~~	~~EHW~~	~~C O I~~
~~U009~~	~~107-13-1~~	~~Acrylonitrile~~	~~EHW~~	~~C I~~
~~P070~~	~~116-06-3~~	~~Aldicarb~~	~~EHW~~	~~B~~
~~P004~~	~~309-00-2~~	~~Aldrin~~	~~EHW~~	~~X H~~
~~P005~~	~~107-18-6~~	~~Allyl alcohol~~	~~EHW~~	~~B I~~
~~P006~~	~~20859-73-8~~	~~Aluminum phosphide (R,T)~~	~~EHW~~	~~B R~~
~~P007~~	~~2763-96-4~~	~~5-(Aminomethyl)-3-isoxazolol~~	~~EHW~~	~~B~~
~~P008~~	~~504-24-5~~	~~4-alpha-Aminopyridine~~	~~EHW~~	~~B~~
~~P009~~	~~131-74-8~~	~~Ammonium picrate~~	~~EHW~~	~~R~~
~~P119~~	~~7803-55-6~~	~~Ammonium vanadate~~	~~EHW~~	~~B~~
~~U012~~	~~62-53-3~~	~~Aniline~~	~~EHW~~	~~C I~~
~~P099~~	~~506-61-6~~	~~Argentate(1-), bis(cyano-C)-, potassium~~	~~EHW~~	~~BR~~
~~P010~~	~~7778-39-4~~	~~Arsenic acid~~	~~EHW~~	~~B~~
~~P012~~	~~1327-53-3~~	~~Arsenic (III) oxide~~	~~EHW~~	~~B~~
~~P011~~	~~1303-28-2~~	~~Arsenic (V) oxide~~	~~EHW~~	~~B~~
~~P011~~	~~1303-28-2~~	~~Arsenic pentoxide~~	~~EHW~~	~~B~~
~~P012~~	~~1327-53-3~~	~~Arsenic trioxide~~	~~EHW~~	~~B~~
~~P038~~	~~692-42-2~~	~~Arsine, diethyl~~	~~EHW~~	~~B~~
~~P036~~	~~696-28-6~~	~~Arsonous dichloride, phenyl~~	~~EHW~~	~~?~~
~~U015~~	~~115-02-6~~	~~Azaserine~~	~~EHW~~	~~C~~
~~P054~~	~~151-56-4~~	~~Aziridine~~	~~EHW~~	~~B~~
~~P067~~	~~75-55-8~~	~~Aziridine, 2-methyl~~	~~EHW~~	~~I~~
~~U010~~	~~50-07-7~~	~~Azirino(2',3':3,4)pyrrolo(1,2a)-indole-4,7-dione, 6-amino-8-[((aminocarbonyl)oxy)-methyl]-1,-1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-[1aS-(1aalpha, 8beta, 8aalpha)]~~	~~EHW~~	~~B~~
~~P013~~	~~542-62-1~~	~~Barium cyanide~~	~~EHW~~	~~A~~
~~U157~~	~~56-49-5~~	~~Benz[j]aceanthrylene,-1,2-dihydro-3-methyl-~~	~~EHW~~	~~H P~~
~~U017~~	~~98-87-3~~	~~Benzal chloride~~	~~EHW~~	~~D H~~
~~U018~~	~~56-55-3~~	~~Benz[a]anthracene~~	~~EHW~~	~~P~~
~~U018~~	~~56-55-3~~	~~1,2-Benzanthracene~~	~~EHW~~	~~P~~
~~U094~~	~~57-97-6~~	~~1,2-Benzanthracene, 7,12-dimethyl~~	~~EHW~~	~~C P~~
~~U012~~	~~62-53-3~~	~~Benzenamine~~	~~EHW~~	~~C I~~
~~P024~~	~~106-47-8~~	~~Benzenamine, 4-chloro~~	~~EHW~~	~~C H~~
~~U049~~	~~3165-93-3~~	~~Benzenamine, 4-chloro-2-methyl-, hydrochloride~~	~~EHW~~	~~H~~
~~U093~~	~~60-11-7~~	~~Benzenamine, N, N-dimethyl-4-(phenylazo)-~~	~~EHW~~	~~C~~

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U158	101-14-4	Benzenamine, 4,4 methylenebis (2 chloro-	EHW	H
P077	100-01-6	Benzenamine, 4-nitro	EHW	D ?
P028	100-44-7	Benzene, (chloromethyl)	EHW	B H
U019	71-43-2	Benzene	EHW	C I
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl) -alpha-hydroxy, ethylester	EHW	H
U030	101-55-3	Benzene, 1-bromo-4-phenoxy	EHW	H
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-	EHW	H
U037	108-90-7	Benzene, chloro-	EHW	B H I
U190	85-44-9	1,2-Benzenedicarboxylic acid -anhydride	EHW	C
U070	95-50-1	Benzene, 1,2-dichloro-	EHW	B H
U071	541-73-1	Benzene, 1,3-dichloro-	EHW	B H
U072	106-46-7	Benzene, 1,4-dichloro-	EHW	B H
U017	98-87-3	Benzene, (dichloromethyl)	EHW	D H
U223	26471-45-8	Benzene, 1,3-diisocyanatomethyl-	EHW	B R
U239	1330-20-7	Benzene, dimethyl-	EHW	C I
U201	108-46-3	1,3-Benzenediol	EHW	C
P046	122-09-8	Benzeneethanamine, alpha, alpha-dimethyl-	EHW	?
U127	118-74-1	Benzene, hexachloro-	EHW	H
U056	110-82-7	Benzene, hexahydro-	EHW	C I
U188	108-95-2	Benzene, hydroxy-	EHW	C
U220	108-88-3	Benzene, methyl-	EHW	C I
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-	EHW	C
U106	606-20-2	Benzene, 2-Methyl-1,3-dinitro-	EHW	C
U055	98-82-8	Benzene, (1,methylethyl)-	EHW	C I
U169	98-95-3	Benzene, nitro-	EHW	C I
U183	608-93-5	Benzene, pentachloro-	EHW	H
U185	82-68-8	Benzene, pentachloronitro-	EHW	D H
U020	98-09-9	Benzenesulfonic acid chloride	EHW	D H O R
U020	98-09-9	Benzenesulfonyl chloride	EHW	D H O R
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-	EHW	D H
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene) -bis[4-methoxy-H	EHW	DH
U023	98-07-7	Benzene, (trichloromethyl)-	EHW	H O R
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2 -(methyl-amino)ethyl]-	EHW	B
P014	108-98-5	Benzenethiol	EHW	A
U021	97-87-5	Benzidine	EHW	B
U064	189-55-9	Benzo[rst]pentaphene	EHW	P
P001	81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1 -phenylbutyl)-, & salts, when present at concentrations -greater than 0.3%	EHW	B
U022	50-32-8	Benzo[a]pyrene	EHW	P
U022	50-32-8	3,4-Benzopyrene	EHW	P
U197		p-Benzoquinone	EHW	C
U023	98-07-7	Benzotrichloride	EHW	H O R
U050	218-01-9	1,2-Benzphenanthrene	EHW	P
P028	100-44-7	Benzyl chloride	EHW	B H
P015	7440-41-7	Beryllium	EHW	C
U085	1464-53-5	2,2'-Bioxirane	EHW	B I
U021	97-87-5	(1,1"-Biphenyl)-4,4'-diamine	EHW	B
U073	91-94-1	(1,1'-Biphenyl-4,4'-diamine, 3,3'-dichloro-	EHW	H
U095	119-93-7	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethyl-	EHW	C
U024	111-91-1	Bis(2-chloroethoxy) methane	EHW	C H
U027	108-60-1	Bis(2-chloroisopropyl) ether	EHW	C H O
P016	542-88-1	Bis(chloromethyl) ether	EHW	B H
U246	506-68-3	Bromine cyanide	EHW	C H
P017	598-31-2	Bromoacetone	EHW	C H
U225	75-25-2	Bromoform	EHW	H
U030	101-55-3	4-Bromophenyl phenyl ether	EHW	H
P018	357-57-3	Brucine	EHW	A
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4 -hexachloro-	EHW	C H
U035	305-03-3	Butanoic acid, 4-[bis(2-chloroethyl) -amino]-benzene-	EHW	H
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-O -[methylamino)carbonyl] oxime	EHW	B
U160	1338-23-4	2-Butanone peroxide	EHW	B R
U053	4170-30-3	2-Butenal	EHW	B I
U074	764-41-0	2-Butene, 1,4-dichloro-	EHW	C H I

U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutyoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1yl ester, [1S-[1alspha(Z),7(2S*,3R*),7aalpha]]	EHW	C
U032	13765-19-0	Calcium chromate	EHW	C TC
P021	592-01-8	Calcium cyanide	EHW	B
P021	592-01-8	Calcium cyanide Ca(CN)2	EHW	R
P123	8001-35-2	Camphene, octachloro	EHW	X H
U178	615-53-2	Carbamic acid, methylnitroso-, ethylester	EHW	C
U176	759-73-9	Carbamide, N-ethyl-N-nitroso	EHW	C
U177	684-93-5	Carbamide, N-methyl-N-nitroso	EHW	C
U219	62-56-6	Carbamide, thio	EHW	C
P103	630-10-4	Carbamimidoselenoic acid	EHW	B
U062	2303-16-4	Carbamothioic acid, bis (1-methylethyl)-, S-(2,3-dichloro-2propenyl)ester	EHW	C H
U097	79-44-7	Carbamoyl chloride, dimethyl	EHW	D H
P022	75-15-0	Carbon bisulfide	EHW	D I ?
P022	75-15-0	Carbon disulfide	EHW	D I ?
U156	79-22-1	Carbonochloridic acid, methyl ester	EHW	B H I
U033	353-50-4	Carbon oxyfluoride	EHW	B H R
U211	56-23-5	Carbon tetrachloride	EHW	C H
P095	75-44-5	Carbonic dichloride	EHW	B H
U033	353-50-4	Carbonic difluoride	EHW	BH
U033	353-50-4	Carbonyl fluoride	EHW	B H R
U035	305-03-3	Chlorambucil	EHW	H
U036	57-74-9	Chlordane, alpha and gamma isomers	EHW	X H
P033	506-77-4	Chlorine cyanide	EHW	A H
U026	494-03-1	Chlornaphazine	EHW	H
P023	107-20-0	Chloroacetaldehyde	EHW	B H
P024	106-47-8	p-Chloroaniline	EHW	C H
U037	108-90-7	Chlorobenzene	EHW	B H I
U038	510-15-6	Chlorobenzilate	EHW	DH
U039	59-50-7	P-Chloro-m-cresol	EHW	H
U041	106-89-8	1-Chloro-2,3-epoxypropane	EHW	C H I
U042	110-75-8	2-Chloroethyl vinyl ether	EHW	C H
U044	67-66-3	Chloroform	EHW	C H
U046	107-30-2	Chloromethyl methyl ether	EHW	D H I
U047	91-58-7	beta-Chloronaphthalene	EHW	D H
U048	95-57-8	o-Chlorophenol	EHW	D H
P026	5344-82-1	1-(o-Chlorophenyl)thiourea	EHW	A H
P027	542-76-7	3-Chloropropionitrile	EHW	B H
U049	3165-93-3	4-Chloro-o-toluidine, hydrochloride	EHW	H
U032	13765-19-0	Chromic acid, calcium salt	EHW	C TC
U050	218-01-9	Chrysene	EHW	P
P029	544-92-3	Copper cyanide Cu(CN)	EHW	R
P029	544-92-3	Copper cyanides	EHW	B
U052	1319-77-3	Cresols	EHW	B
U052	1319-77-3	Cresylic acid	EHW	B
U053	4170-30-3	Crotonaldehyde	EHW	B I
U055	98-82-8	Cummene	EHW	C I
P030	xx-xx-x	Cyanides (soluble cyanide salts), not elsewhere specified	EHW	A
P031	460-19-5	Cyanogen	EHW	B I
U246	506-68-3	Cyanogen bromide	EHW	C H
P033	506-77-4	Cyanogen chloride	EHW	A H
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione	EHW	C
U056	110-82-7	Cyclohexane	EHW	C I
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-hexachloro-(1alpha,2alpha,3beta,4alpha,5alpha,6beta)-	EHW	C H
U057	108-94-1	Cyclohexanone	EHW	C I
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol	EHW	C
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexa-chloro-	EHW	X H
U058	50-18-0	Cyclophosphamide	EHW	C H I
U240	94-75-7	2,4-D, salts and esters	EHW	B H
U060	72-54-8	DDD	EHW	C H
U061	50-29-3	DDT	EHW	X H
U142	143-50-0	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one	EHW	X H
U062	2303-16-4	Diallate	EHW	C H
U133	302-01-2	Diamine	EHW	B R
U063	55-70-3	Dibenz[a,h]anthracene	EHW	A P
U063	55-70-3	1,2:5,6-Dibenzanthracene	EHW	P A
U064	189-55-9	1,2:7,8-Dibenzopyrene	EHW	P
U064	189-55-9	Dibenz[a,i]pyrene	EHW	P

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U066	96-12-8	1,2-Dibromo-3-chloropropane	EHW	C H
U062	2303-16-4	S-(2,3-Dichloroallyl) diisopropylthiocarbamate	EHW	C H
U070	95-50-1	o-Dichlorobenzene	EHW	B H
U071	541-73-1	m-Dichlorobenzene	EHW	B H
U072	106-46-7	p-Dichlorobenzene	EHW	B H
U073	91-94-1	3,3'-Dichlorobenzidine	EHW	H
U074	764-41-0	1,4-Dichloro-2-butene	EHW	C H I
U075	75-71-8	Dichlorodifluoromethane	EHW	H
U060	72-54-8	Dichloro-diphenyl-dichloroethane	EWH	C H
U061	50-29-3	Dichloro-diphenyl-trichloroethane	EWH	X H
U078	75-35-4	1,1-Dichloroethylene	EHW	C H
U079	156-60-5	1,2-Dichloroethylene	EHW	D H
U025	111-44-4	Dichloroethyl ether	EHW	C H
U027	108-60-1	Dichloroisopropyl ether	EHW	CHR
P016	542-88-1	Dichloromethyl ether	EHW	HI
U081	120-83-2	2,4-Dichlorophenol	EHW	D H
U082	87-65-0	2,6-Dichlorophenol	EHW	D H
U240	94-75-7	2,4-Dichlorophenoxyacetic acid, salts and esters	EHW	B H
P036	696-28-6	Dichlorophenylarsine	EHW	B H
U083	78-87-5	1,2-Dichloropropane	EHW	C H I
U084	542-75-6	1,3-Dichloropropene	EHW	C H
P037	60-57-1	Dieldrin	EHW	X H
U085	1464-53-5	1,2:3,4-Diepoxybutane	EHW	B I
P038	692-42-2	Diethylarsine	EHW	B
P039	298-04-4	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate	EHW	A
U087	3288-58-2	O,O-Diethyl-S-methyl-dithiophosphate	EHW	B
P041	311-45-5	Diethyl-p-nitrophenyl phosphate	EHW	A
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate	EHW	A
P043	55-91-4	Diisopropyl-fluorophosphate	EHW	B H
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10, 10-hexachloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha, 4alpha, 4abeta, 5alpha, 8alpha, 8abeta)	EHW	B H
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10 hexachloro-1,4,4a,5,8,8a hexahydro-, (1alpha, 4alpha, 4abeta, 5beta, 8beta, 8abeta)	EHW	B H
P037	60-57-1	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6, 9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta, 2aalpha, 3beta, 6beta, 6aalpha, 7beta, 7aalpha)	EHW	B H
P051	72-20-8	2,7,:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octohydro-, (1aalpha, 2beta, 2abeta, 3alpha, 6alpha, 6abeta, 7beta, 7aalpha) & metabolites	EHW	B H
P044	60-51-5	Dimethoate	EHW	A
U092	124-40-3	Dimethylamine	EHW	C I
U093	60-11-7	P-Dimethylaminoazobenzene	EHW	C
U094	57-97-6	7,12-Dimethylbenz[a]anthracene	EWH	C P
U095	119-93-7	3,3'-Dimethylbenzidine	EHW	C
U096	80-15-9	alpha,alpha-Dimethylbenzylhydro peroxide	EHW	C R
U097	79-44-7	Dimethylcarbamoyl chloride	EHW	D H
U099	540-73-8	1,2-Dimethylhydrazine	EHW	C I
P045	39196-18-4	3,3-Dimethyl-1-(methylthio)-2 butanone,O-[(methylamino) carbonyl] oxime	EHW	B
P071	298-00-0	O,O-Dimethyl O-p-nitrophenyl phosphorothioate	EHW	A
P082	62-75-9	Dimethylnitrosamine	EHW	B
P046	122-09-8	alpha, alpha-Dimethylphenethylamine	EHW	C
U103	77-78-1	Dimethyl sulfate	EHW	C O
P047	534-52-1	4,6-Dinitro-o-cresol and salts	EHW	B
P034	131-89-5	4,6-Dinitro-o-cyclohexylphenol	EHW	C
P048	51-28-5	2,4-Dinitrophenol	EHW	B
U105	121-14-2	2,4-Dinitrotoluene	EHW	C
U106	606-20-2	2,6-Dinitrotoluene	EHW	C
P020	88-85-7	Dinoseb	EHW	B
U109	122-66-7	1,2-Diphenylhydrazine	EHW	C
P085	152-16-9	Diphosphoramide, octamethyl	EHW	?
P111	107-49-3	Diphosphoric acid, tetraethyl ester	EHW	A
U110	142-84-7	Dipropylamine	EHW	C I
U111	621-64-7	Di-n-propylnitrosamine	EHW	C
P039	298-04-4	Disulfoton	EHW	A
P049	541-53-7	Dithiobiuret	EHW	A

P109	3689-24-5	Dithiopyrophosphoric acid, tetraethyl ester	EHW	A
P050	115-29-7	Endosulfan	EHW	X H
P088	145-73-3	Endothall	EHW	B
P051	72-20-8	Endrin	EHW	X H
P051	72-20-8	Endrin, & metabolites	EHW	B H
U041	106-89-8	Epichlorhydrin	EHW	B I R
P042	51-43-4	Epinephrine	EHW	B
U001	75-07-0	Ethanal	EHW	C
U174	55-18-4	Ethanamine, N-ethyl-N-nitroso	EHW	C
P046	122-09-8	Ethanamine, 1,1-dimethyl-2-phenyl	EHW	C
U067	106-93-4	Ethane, 1,2-dibromo-	EHW	C H
U076	75-34-3	Ethane, 1,1-dichloro-	EHW	D H
U077	107-06-2	Ethane, 1,2-dichloro-	EHW	D H
P031	460-19-5	Ethanedinitrile	EHW	R
U114	111-54-6	1,2-Ethanediylbiscarbamodithioic acid	EHW	B
U131	67-72-1	Ethane, hexachloro-	EHW	H
U024	111-91-1	Ethane, 1,1'-[methylenebis(oxy)] bis[2-chloro-	EHW	C H
U247	72-43-5	Ethane, 1,1,1-trichloro-2,2-bis(p-methoxy phenyl)	EHW	D H
U003	75-05-8	Ethanenitrile	EHW	C
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-	EHW	C H
U184	76-01-7	Ethane, pentachloro-	EHW	A H
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-	EHW	H
U209	79-34-5	Ethane, 1,1,2,2-Tetrachloro-	EHW	H
U227	79-00-5	Ethane, 1,1,2-trichloro-	EHW	C H
P066	16752-77-5	Ethanimidothioc acid, N-[[(methylamino) carbonyl]oxy]-, methyl ester	EHW	B
P084	4549-40-0	Ethenamine, N-methyl-N-nitroso-	EHW	B
U043	75-01-4	Ethene, chloro-	EHW	D H
U042	110-75-8	Ethane, 2-chloroethoxy-	EHW	C H
U078	75-35-4	Ethene, 1,1-dichloro-	EHW	C H
U079	156-60-5	Ethene, 1,2-dichloro-, (E)	EHW	D H
U210	127-18-4	Ethene, tetrachloro-	EHW	C H
U006	75-36-5	Ethanoyl chloride	EHW	C H O R
P101	107-12-0	Ethyl cyanide	EHW	B
U038	510-15-6	Ethyl-4,4'-dichlorobenzilate	EHW	D H
U114	111-54-6	Ethylenebis(dithiocarbamic acid), salts and esters	EHW	B
U067	106-93-4	Ethylene dibromide	EHW	C H
U077	75-34-3	Ethylene dichloride	EHW	D H
U115	75-21-8	Ethylene oxide	EHW	C I
P054	151-56-4	Ethylenimine	EHW	B
U076	75-34-3	Ethylidene dichloride	EHW	D H
P097		Famphur	EHW	A
P056	7782-41-4	Fluorine	EHW	B
P057	640-19-7	Fluoroacetamide	EHW	B H
P058	62-74-8	Fluoroacetic acid, sodium salt	EHW	A H
U122	50-00-0	Formaldehyde	EHW	C
P065	628-86-4	Fulminic acid, mercury (II) salt	EHW	R ?
U125	98-01-1	2-Furancarboxaldehyde	EHW	C I
U147	108-31-6	2,5-Furandione	EHW	C
U125	98-01-1	Furfural	EHW	C I
U126	765-34-4	Glycidylaldehyde	EHW	C
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-	EHW	C
P059	76-44-8	Heptachlor	EHW	X H
U127	118-74-1	Hexachlorobenzene	EHW	H
U128	87-68-3	Hexachlorobutadiene	EHW	C H
U129	58-89-9	Hexachlorocyclohexane (gamma isomer)	EHW	H
U130	77-47-4	Hexachlorocyclopentadiene	EHW	X H
P051	72-20-8	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, -endo-1,4,5,8-dimethanophthalene	EHW	X H
P037	60-57-1	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo, -exo-1,4,5,8-dimethanonaphthalene	EHW	X H
U131	67-72-1	Hexachloroethane	EHW	H
P060	465-73-6	1,2,3,4,10,10-Hexachloro-1,4,4a,5,-8,8a-hexahydro-1,4:5,8-endo, -endo-dimethanonaphthalene	EHW	B H
P004	309-00-2	1,2,3,4,10,10-Hexachloro-1,4,4a,5,-8,8a-hexahydro-1,4,5,8-endo, -exodimethanonaphthalene	EHW	B H

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P060	465-73-6	Hexachlorohexahydro endo, endo -dimethanonaphthalene	EHW	B H
U132	70-30-4	Hexachlorophene	EHW	C H
U243	1888-71-7	Hexachloropropene	EHW	H
P062	757-58-4	Hexaethyl tetraphosphate	EHW	B
U133	302-01-2	Hydrazine	EHW	B R
P116	79-19-6	Hydrazinecarbothioamide	EHW	B
U099	540-73-8	Hydrazine, 1,2-dimethyl	EHW	C I
U109	122-66-7	Hydrazine, 1,2-diphenyl	EHW	C
P068	60-34-4	Hydrazine, methyl	EHW	A I
P063	74-90-8	Hydrocyanic acid	EHW	A
P063	74-90-8	Hydrogen cyanide	EHW	A
P096	7803-51-2	Hydrogen phosphide	EHW	B I
U135	7783-06-4	Hydrogen sulfide	EHW	B I
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl-	EHW	C R
U245	53-86-1	Indomethacin	EHW	B H
P064	624-83-9	Isocyanic acid, methyl ester	EHW	I ?
P060	465-73-6	Isodrin	EHW	B H
P007	2763-96-4	3(2H) Isoxazolone, 5 (aminomethyl)	EHW	B
U142	143-50-0	Kepone	EHW	X H
U143	303-34-4	Lasiocarpine	EHW	C
U144	301-04-2	Lead acetate	EHW	D TC
U129	58-89-9	Lindane	EHW	H
U163	70-25-7	MNNG	EHW	C
U147	108-31-6	Maleic anhydride	EHW	C
U149	109-77-3	Malononitrile	EHW	C
U151	7439-97-6	Mercury	EHW	TC
P092	62-38-4	Mercury, (acetato-O)phenyl	EHW	B
P065	628-86-4	Mercury fulminate	EHW	R ?
U152	126-98-7	Methacrylonitrile	EHW	B I
U092	124-40-3	Methanamine, N-methyl	EHW	C I
P082	62-75-9	Methanamine, N-methyl-N-nitroso	EHW	?
P016	542-88-1	Methane, oxybis(chloro)	EHW	B H
P112	509-14-8	Methane, tetranitro	EHW	A R
U029	74-83-9	Methane, bromo	EHW	H
U045	74-87-3	Methane, chloro	EHW	H I
U046	107-30-2	Methane, chloromethyoxy	EHW	D H I
U068	74-95-3	Methane, dibromo	EHW	C H
U080	75-09-2	Methane, dichloro	EHW	C H
U075	75-71-8	Methane, dichlorodifluoro	EHW	H
U138	74-88-4	Methane, iodo	EHW	H
P064	624-83-9	Methane isocyanato	EHW	C I R
U211	56-23-5	Methane, tetrachloro	EHW	C H
P118	75-70-7	Methanethiol, trichloro	EHW	H
U153	74-93-1	Methanethiol	EHW	B I
U225	75-25-2	Methane, tribromo	EHW	H
U121	75-69-4	Methane, trichlorofluoro	EHW	H
U044	67-66-3	Methane, trichloro	EHW	C H
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexacloro-1,5,5a,6,9,9a-hexaydro-,3-oxide	EHW	B H
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7, 8,8-heptachloro-3a,4,7,7a-tetrahydro-	EHW	X H
U036	57-74-9	4,7,Methano-1H-indene, 1,2,4,5,6,7,88-octachloro-2,3,3a,4,7,7a-hexahydro-	EHW	X H
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[ed]pentalen-2-one, 1,1a3,3a,4,5,5a,5b,6-decachlorooctahydro-	EHW	C H
P066	16752-77-5	Methomyl	EHW	B
U247	72-43-5	Methoxychlor	EHW	D H
P067	75-55-8	2-Methylaziridine	EHW	B I
P068	60-34-4	Methyl hydrazine	EHW	A I
P064	624-83-9	Methyl isocyanate	EHW	I ?
P069	75-86-5	2-Methyllactonitrite	EHW	A
P071	298-00-0	Methyl parathion	EHW	A
U029	74-83-9	Methyl bromide	EHW	H
U045	74-87-3	Methyl chloride	EHW	H I
U156	79-22-1	Methyl chlorocarbonate	EHW	B H I
U226	71-55-6	Methylchloroform	EHW	C H
U157	56-49-5	3-Methylcholanthrene	EHW	H P
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)	EHW	H
U132	70-30-4	2,2'-Methylenebis(3,4,6-trichlorophenol)	EHW	C H
U068	74-95-3	Methylene bromide	EHW	C H
U080	75-09-2	Methylene chloride	EHW	C H
U122	50-00-0	Methylene oxide	EHW	C
U160	1338-23-4	Methyl ethyl ketone peroxide	EHW	B R

U138	74-88-4	Methyl iodide	EHW	H
U163	70-25-7	N-Methyl N'-nitro-N-nitrosoguanidine	EHW	C R
U010	50-07-7	Mitomycin C	EHW	B
U165	91-20-3	Naphthalene	EHW	B
U047	91-58-7	Naphthalene, 2-chloro	EHW	D H
U166	130-15-4	1,4-Naphthalenedione	EHW	C
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'diyl)]-bis-(azo)bis(5-amino-4-hydroxy)-,tetrasodium salt	EHW	H
U166	130-15-4	1,4-Naphthoquinone	EHW	C
U167	134-32-7	1-Napthalenamine	EHW	B
U168	91-59-8	2-Napthalenamine	EHW	B
U167	134-32-7	alpha-Napthalenamine	EHW	B
U168	91-59-8	beta-Napthalenamine	EHW	B
U026	494-03-1	2-Napthalenamine, N,N-bis(2-chloro-ethyl)-	EHW	H
P072	86-88-4	alpha-Naphthylthiourea	EHW	B
P073	13463-39-3	Nickel carbonyl	EHW	B
P073	13463-39-3	Nickel carbonyl Ni(CO)4, (T-4)	EHW	I
P074	557-19-7	Nickel cyanide	EHW	D R ?
P074	557-19-7	Nickel (II) cyanide	EHW	D R ?
P073	13463-39-3	Nickel tetracarbonyl	EHW	B
P075	54-11-5	Nicotine and salts	EHW	B
U217	10102-45-1	Nitric acid, thallium(1+)salt	EHW	?
P076	10102-43-9	Nitric oxide	EHW	B
P077	100-01-6	p-Nitroaniline	EHW	D ?
U169	98-95-3	Nitrobenzene	EHW	C I
P078	10102-44-0	Nitrogen dioxide	EHW	A
P076	10102-43-9	Nitrogen (II) oxide	EHW	B
P078	10102-44-0	Nitrogen (IV) oxide	EHW	A
P081	55-63-0	Nitroglycerine	EHW	R ?
U170	100-02-7	p-Nitrophenol	EHW	C
U171	79-46-9	2-Nitropropane	EHW	C I
U174	55-18-4	N-Nitrosodiethylamine	EHW	C
P082	62-75-9	N-Nitrosodimethylamine	EHW	B
U176	759-73-9	N-Nitroso-N-ethylurea	EHW	C
U177	684-93-5	N-Nitroso-N-methylurea	EHW	C
U178	615-53-2	N-Nitroso-N-methylurethane	EHW	C
P084	4549-40-0	N-Nitrosomethylvinylamine	EHW	B
U179	100-75-4	N-Nitrosopiperidine	EHW	C
U111	621-64-7	N-Nitroso-n-propylamine	EWH	C
P050	115-29-7	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite	EHW	X H
P085	152-16-9	Octamethylpyrophosphoramide	EHW	A
P087	20816-12-0	Osmium oxide	EHW	B
P087	20816-12-0	Osmium tetroxide	EHW	B
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid	EHW	B
U058	62-74-8	2H-1,3,2-Oxazaphosphorine-2-amine, N,N-bis(2-chloroethyl)tetrahydro-,2-oxide	EHW	C H I
U115	75-21-8	Oxirane	EWH	C I
U041	106-89-8	Oxirane, (chloromethyl)-	EHW	C H I
P089	56-38-2	Parathion	EHW	X
U183	608-93-5	Pentachlorobenzene	EHW	H
U184	76-01-7	Pentachloroethane	EHW	A H
U185	82-68-8	Pentachloronitrobenzene (PCNB)	EHW	D H
See	F027	Pentachlorophenol	EHW	A H
U188	108-95-2	Phenol	EHW	C
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-	EHW	C
P048	51-28-5	Phenol, 2,4-dinitro-	EHW	B
P047	534-52-1	Phenol, 2-methyl-4,6-dinitro-, and salts	EHW	B
P020	88-85-7	Phenol, 2,4-dinitro-6-(1-methylpropyl)-	EHW	B
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-	EHW	B I
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt	EHW	R
U048	95-57-8	Phenol, 2-chloro-	EHW	D H
U039	59-50-7	Phenol, 4-chloro-3-methyl-	EHW	H
U081	120-83-2	Phenol, 2,4-dichloro-	EHW	D H
U082	87-65-0	Phenol, 2,6-dichloro-	EHW	D H
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-	EHW	C H I
U170	100-02-7	Phenol, 4-nitro-	EHW	C

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See F027	87-86-5	Phenol, pentachloro	EHW	A H
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro	EHW	C H
See F027	95-95-4	Phenol, 2,4,5-trichloro	EHW	A H
See F027	88-06-2	Phenol, 2,4,6-trichloro	EHW	A H
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]	EHW	B H
P036	696-28-6	Phenyl dichloroarsine	EHW	B H
P092	62-38-4	Phenylmercury acetate	EHW	B
P093	103-85-5	Phenylthiourea	EHW	A
P094	298-02-2	Phorate	EHW	X
P095	75-44-5	Phosgene	EHW	B H
P096	7803-51-2	Phosphine	EHW	B I
P041	311-45-5	Phosphoric acid, diethyl p-nitrophenyl ester	EHW	A
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)esthyl] ester	EHW	A
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester	EHW	A
P043	55-91-4	Phosphorofluoridic acid, bis(1-methyl-ethyl)ester	EHW	B H
P094	298-02-2	Phosphorothiae acid, O,O-diethyl S-(ethylthio)methyl ester	EHW	X
P097	52-85-7	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl) -pheny]ester	EHW	A
P071	298-00-0	Phosphorothioic acid, O,O-dimethyl O-(4-nitrophenyl) ester	EHW	B I
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl)ester	EHW	X
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyra-zinyl ester	EHW	A
U189	1314-80-3	Phosphorus sulfide	EHW	B I R
U190	85-44-9	Phthalic anhydride	EHW	C
U191	109-06-8	2-Picoline	EHW	C
U179	100-75-4	Piperidine, 1-nitroso	EHW	C
P110	78-00-2	Plumbane, tetraethyl	EHW	A
P098	150-50-8	Potassium cyanide	EHW	A
P098	151-50-8	Potassium cyanide K(CN)	EHW	B R
P099	506-61-6	Potassium silver cyanide	EHW	A
P070	116-06-3	Propanal, 2-methyl-2(methylthio) O-[(methylamino)carbonyl]oxime	EHW	B
U194	107-10-8	1-Propanamine	EHW	C I
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl	EHW	C
U110	142-84-7	1-Propanamine, N-propyl	EHW	C I
U066	96-12-8	Propane, 1,2-dibromo-3-chloro	EHW	C H
U149	109-77-3	Propanedinitrile	EHW	C
P101	107-12-0	Propanenitrile	EHW	B
P027	542-76-7	Propanenitrile, 3-chloro	EHW	B H
P069		Propanenitrile, 2-hydroxy-2-methyl	EHW	A
U083	78-87-5	Propane, 1,2-dichloro	EHW	D H I
U171	79-46-9	Propane, 2-nitro	EHW	C I
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro	EHW	C H O
P081	55-63-0	1,2,3-Propanetriol, trinitrate	EHW	R ?
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)	EHW	D H
U126	765-34-4	1-Propanol, 2,3-epoxy	EHW	C
P017	598-31-2	2-Propanone, 1-bromo	EHW	C H
P102	107-19-7	Propargyl alcohol	EHW	X
P003	107-02-8	2-Propenal	EHW	X
U007	79-06-1	2-Propenamide	EHW	C
U084	542-75-6	Propene, 1,3-dichloro	EHW	C H
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro	EHW	H
U009	107-13-1	2-Propenenitrile	EHW	C I
U152	126-98-7	2-Propenenitrile, 2-methyl	EHW	B I
U008	79-10-7	2-Propenoic acid	EHW	C O I
P005	107-18-6	2-Propen-1-ol	EHW	B I
U194	107-10-8	n-Propylamine	EHW	C I
U083	78-87-5	Propylene dichloride	EHW	C H I
P067	75-55-8	1,2-Propylenimine	EHW	B I
P102	107-19-7	2-Propyn-1-ol	EHW	X
P008	504-24-5	4-Pyridinamine	EHW	B

P075	54-11-5	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts	EHW	B
U196	110-86-1	Pyridine	EHW	C I
U179	100-75-4	Pyridine, hexahydro-N-nitroso	EHW	C
U191	109-06-8	Pyridine,2-methyl	EHW	C
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-[(bis(2-chloroethyl)amino]-	EHW	B H
P111	107-49-3	Pyrophosphoric acid, tetraethyl-ester	EHW	A
U201	108-46-3	Resorcinol	EHW	C
P114	12039-52-0	Selenious acid, dithallium (1+) salt	EHW	?
U205	7488-56-4	Selenium sulfide SeS2	EHW	C
P103	630-10-4	Selenourea	EHW	B
U015	115-02-6	L-Serine, diazoacetate (ester)	EHW	C
See F027		Silvex		
P104	506-64-9	Silver cyanide	EHW	C
P104	506-64-9	Silver cyanide AG(CN)	EHW	C R
P105	26628-22-8	Sodium azide	EHW	A
P106	143-33-9	Sodium cyanide	EHW	A
P106	143-33-9	Sodium cyanide NA(CN)	EHW	B R
P107	1314-96-1	Strontium sulfide	EHW	R
P108	57-24-9	Strychnidin-10-one, and salts	EHW	B
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy	EHW	A
P108	57-24-9	Strychnine and salts	EHW	B
U135	7783-06-4	Sulfur hydride	EHW	B I
U103	77-78-1	Sulfuric acid, dimethyl ester	EHW	C O
P115	7446-18-6	Sulfuric acid, thallium (I) salt	EHW	B
U189	1314-80-3	Sulfur phosphide	EHW	B I R
See F027	93-76-5	2,4,5-T	EHW	B H
U207	95-94-3	1,2,4,5-Tetrachlorobenzene	EHW	D H
U208	630-20-8	1,1,1,2-Tetrachloroethane	EHW	H
U209	79-34-5	1,1,2,2-Tetrachloroethane	EHW	H
U210	127-18-4	Tetrachloroethylene	EHW	C H
U212	58-90-2	2,3,4,6-Tetrachlorophenol	EHW	C H
P109	3689-24-5	Tetraethyldithiopyrophosphate	EHW	A
P110	78-00-2	Tetraethyl lead	EHW	A
P111	107-49-3	Tetraethylpyrophosphate	EHW	A
P112	509-14-8	Tetranitromethane	EHW	A R
P062	757-58-4	Tetraphosphoric acid, hexaethyl-ester	EHW	B
P113	1314-32-5	Thallic oxide	EHW	B
P113	1314-32-5	Thallium (III) oxide	EHW	B
P114	12039-52-0	Thallium (I) selenide	EHW	C
P115	7446-18-6	Thallium (I) sulfate	EHW	B
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester	EHW	B
P045	39196-18-6	Thiofanox	EHW	B
P049	541-53-7	Thioimidodicarbonic diamide	EHW	A
U153	74-93-1	Thiomethanol	EHW	B I
P014	108-98-5	Thiophenol	EHW	A
P116	79-19-6	Thiosemicarbazide	EHW	B H
U219	62-56-6	Thiourea	EHW	C
P026	5344-82-1	Thiourea, (2-chlorophenyl)	EHW	A H
P072	86-88-4	Thiourea, 1-naphthalenyl	EHW	B
P093	103-85-5	Thiourea, phenyl	EHW	A
U220	108-88-3	Toluene	EHW	C I
U223	26471-62-5	Toluene diisocyanate	EHW	B R
P123	8001-35-2	Toxaphene	EHW	X H
U226	71-55-6	1,1,1-Trichloroethane	EHW	C H
U227	79-00-5	1,1,2-Trichloroethane	EHW	C H
U228	79-01-6	Trichloroethene	EHW	C H
U228	79-01-6	Trichloroethylene	EHW	C H
P118	75-70-7	Trichloromethanethiol	EHW	H
U121	75-69-4	Trichloromonofluoromethane	EHW	H
See F027	95-95-4	2,4,5-Trichlorophenol	EHW	A H
See F027	88-06-2	2,4,6-Trichlorophenol	EHW	A H
U232	93-76-4	2,4,5-Trichlorophenoxy-acetic acid, salts and esters	EHW	B H
U233	93-72-1	2,4,5-Trichlorophenoxy-propionic acid, salts and esters	EHW	B H
U234	99-35-4	1,3,5-Trinitrobenzene	EHW	C
U235	126-72-7	Tris(2,3-disbromopropyl) phosphate	EHW	D H
U236	72-57-1	Trypan blue	EHW	H
U237	66-75-1	Uracil, 5[bis(2-chloroethyl)amino]	EHW	B H

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U237	66-75-1	Uracil mustard	EHW	B H
U176	759-73-9	Urea, N-ethyl-N-nitroso	EHW	C
U176	684-93-5	Urea, N-methyl-N-nitroso	EHW	C
P119	7803-55-6	Vanadic acid, ammonium salt	EHW	B
P120	1314-62-1	Vanadium pentoxide	EHW	B
P120	1314-62-1	Vanadium (V) oxide	EHW	B
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso	EHW	B
U043	75-01-4	Vinyl chloride	EHW	D H
P001	81-81-2	Warfarin	EHW	A
U239	1330-20-7	Xylene	EHW	C I
P121	557-21-1	Zinc cyanide	EHW	C
P122	1314-84-7	Zinc phosphide when present at concentrations greater than 10%	EHW	B R

MODERATELY DANGEROUS CHEMICAL PRODUCTS

U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)	DW	D
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl	DW	?
U112	141-78-6	Acetic acid, ethyl ester	DW	D I
U214	563-68-8	Acetic acid, thallium(I) salt	DW	?
U002	67-64-1	Acetone	DW	D I
U004	98-86-2	Acetophenone	DW	D
U005	53-96-3	2-Acetylaminofluorene	DW	?
U150	148-82-3	Alanine, 3-[p-bis(2-chloroethyl)-amino]-phenyl-, L-	DW	
U328	95-53-4	2-Amino-1-methylbenzene	DW	D
U353	106-49-0	4-Amino-1-methylbenzene	DW	D
U011	61-82-5	Amitrole	DW	D
U136	75-60-5	Arsinic acid, dimethyl	DW	D
U014	492-80-8	Auramine	DW	
U016	225-51-4	Benz[c]acridine	DW	
U016	225-51-4	3,4-Benzacridine	DW	
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-	DW	?
U014	492-80-8	Benzenamine, 4,4-carbonimidoylbis-(N,N-dimethyl-	DW	
U328	95-53-4	Benzenamine, 2-methyl-	DW	D
U353	106-49-0	Benzenamine, 4-methyl-	DW	D
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride	DW	D
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-	DW	D
U221	25376-45-8	Benzenediamine, ar-methyl-	DW	?
U028	117-81-7	1,2-Benzenedicarboxylic acid, [bis(2-ethyl-hexyl)] ester	DW	?
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester	DW	D
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester	DW	?
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester	DW	?
U107	117-84-0	1,2-Benzenedicarboxylic acid, di-n-octyl ester	DW	?
U203	94-59-7	Benzene, 1,2-methylenedioxy-4-allyl	DW	D
U141	120-58-1	Benzene, 1,2-methylenedioxy-4-propenyl-	DW	D
U090	94-58-6	Benzene, 1,2-methylenedioxy-4-propyl-	DW	D
U234	99-35-4	Benzene, 1,3,5-trinitro-	DW	D R
U202	81-07-2	1,2-Benzisothiazilin-3-one, 1,1-dioxide, and salts	DW	
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-	DW	D
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-	DW	D
U090	94-58-6	1,3-Benzodioxole, 5-propyl-	DW	D
U120	206-44-0	Benzo[j,k]fluorene	DW	D
U248	81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, & salts, when present at concentrations of 0.3% or less	DW	?
U091	119-90-4	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimeth-oxy-	DW	D
U244		Bis(dimethylthiocarbomoyl) disulfide	DW	D
U028	117-81-7	Bis(2-ethythoxyl) phthalate	DW	?
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-	DW	D
U031	71-36-3	1-Butanol	DW	D I
U159	78-93-3	2-Butanone	DW	D I

U031	71-36-3	n-Butyl alcohol	DW	D-I
U136	75-60-5	Cacodylic acid	DW	D
U238	51-79-6	Carbamic acid, ethyl ester	DW	
U114	111-54-6	Carbamodithioic acid, 1,2-ethanediybis-, -salts & esters	DW	?
U215	6533-73-9	Carbonic acid, dithallium(I) salt	DW	?
U034	75-87-6	Chloral	DW	?
U051		Creosote	DW	D
U059	20830-81-3	Daunomycin	DW	
U221	25376-45-8	Diaminotoluene	DW	?
U069	84-74-2	Dibutyl phthalate	DW	D
U192	23950-58-5	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide	DW	?
U024	111-19-1	Dichloromethoxy ethane	DW	?
U108	123-91-1	1,4-Diethylene dioxide	DW	D
U028	117-81-7	Diethylhexyl phthalate	DW	?
U086	1615-80-1	N,N-Diethylhydrazine	DW	
U088	84-66-2	Diethyl phthalate	DW	?
U089	56-53-1	Diethylstilbestrol	DW	
U148	123-33-1	1,2-Dihydro-3,6-pyridizinedione	DW	D
U090	94-58-6	Dihydrosafrole	DW	D
U091	119-90-4	3,3'-Dimethoxybenzidine	DW	D
U098	57-14-7	1,1-Dimethylhydrazine	DW	I
U101	105-67-9	2,4-Dimethylphenol	DW	D
U102	131-11-3	Dimethyl phthalate	DW	?
U107	117-84-0	Di-n-octyl phthalate	DW	?
U108	123-91-1	1,4-Dioxane	DW	D
U155	91-80-5	1,2-Ethanediamine, N,N-dimethyl-N'2pyridinyl-N'-(2-thienylmethyl)-	DW	?
U117	60-29-7	Ethane, 1,1'-oxybis	DW	D-I
U218	65-55-5	Ethanethioamide	DW	
U226	71-55-6	Ethane, 1,1,1-trichloro	DW	D
U173	1116-54-7	Ethanol, 2,2-(nitrosoimino)bis	DW	
U359	110-80-5	Ethanol, 2-ethoxy	DW	D-I
U004	98-86-2	Ethanone, 1-phenyl	DW	D
U228	79-01-6	Ethene, trichloro	DW	I
U112	141-78-6	Ethyl acetate	DW	D-I
U113	140-88-5	Ethyl acrylate	DW	D-I
U238	51-79-6	Ethyl carbamate (urethan)	DW	
U359	110-80-5	Ethylene glycol monoethyl ether	DW	D-I
U116	96-45-7	Ethylene thiourea	DW	D
U117	60-29-7	Ethyl ether	DW	D-I
U118	97-63-2	Ethyl methacrylate	DW	I
U119	62-50-0	Ethyl methanesulfonate	DW	
U120	206-44-0	Fluoranthene	DW	D
U123	64-18-6	Formic Acid	DW	D-O
U124	110-00-9	Furan	DW	I
U213	109-99-9	Furan, tetrahydro	DW	I
U124	110-00-9	Furfuran	DW	I
U206	18883-66-4	D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)-	DW	
U206		D-Glucose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-	DW	
U086	1615-80-1	Hydrazine, 1,2-diethyl	DW	
U098	57-14-7	Hydrazine, 1,1-dimethyl	DW	I
U134	7664-39-3	Hydrofluoric acid	DW	D-O
U134	7664-39-3	Hydrogen fluoride	DW	D-O
U135	7783-06-4	Hydrogen sulfide H2S	DW	?
U136	75-60-5	Hydroxydimethylarsine oxide	DW	D
U190	85-44-9	1,3-Ibenzofurandione	DW	D
U116	96-45-7	2-Imidazolidinethione	DW	D
U137	193-39-5	Indeno[1,2,3-cd]pyrene	DW	
U139	cancel	Iron dextran	DW	
U140	78-83-1	Isobutyl alcohol	DW	D-I
U141	120-58-1	Isosafrole	DW	D
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroytri-	DW	?
U145	7446-27-7	Lead phosphate	DW	
U146	1335-32-6	Lead subacetate	DW	
U148	123-33-1	Maleic hydrazide	DW	D
U150	148-82-3	Melphalan	DW	
U119	62-50-0	Methanesulfonic acid, ethyl ester	DW	
U123	64-18-6	Methanoic acid	DW	D-O
U154	67-56-1	Methanol	DW	D-I
U155	91-80-5	Methapyrilene	DW	D
U154	67-56-1	Methyl alcohol	DW	D-I
U186	504-60-9	1-Methylbutadiene	DW	D-I

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U159	78-93-3	Methyl ethyl ketone (MEK)	DW	D I
U161	108-10-1	Methyl isobutyl ketone	DW	D I
U162	80-62-6	Methyl methacrylate	DW	D I
U161	108-10-1	4-Methyl-2-pentanone	DW	
U164	56-04-2	Methylthiouracil	DW	
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2, 3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9, 10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-	DW	?
U172	924-16-3	N-Nitrosodi-n-butylamine	DW	D
U173	1116-54-7	N-Nitrosodiethanolamine	DW	
U180	930-55-2	N-Nitrosopyrrolidine	DW	D
U181	99-55-8	5-Nitro-o-toluidine	DW	D
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide	DW	
U126	765-34-4	Oxiranecarboxyaldehyde	DW	D I
U182	123-63-7	Paraldehyde	DW	D I
U186	504-60-9	1,3-Pentadiene	DW	D I
U161	108-10-1	Pentanol, 4-methyl	DW	D I
U187	62-44-2	Phenacetin	DW	D
U101	105-67-9	Phenol, 2,4-dimethyl	DW	D
U052	1319-77-3	Phenol, methyl	DW	D
U137	193-39-5	1,10-(1,2-Phenylene)pyrene	DW	
U145	7446-27-7	Phosphoric acid, lead (2+) salt (2:3)	DW	
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl-,S-methyl ester	DW	?
U192	23950-58-5	Pronamide	DW	?
U193	1120-71-4	1,3-Propane sultone	DW	
See F027		Prioponic acid, 2-(2,4,5-trichlorophenoxy)		
U140	78-83-1	1-Propanol, 2-methyl	DW	D I
U002	67-64-1	2-Propanone	DW	D I
U113	140-88-5	2-Propenoic acid, ethyl ester	DW	D I
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester	DW	I
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester	DW	D I
U148	123-33-1	3,6-Pyridazinedione, 1, dihydro	DW	D
U155	91-80-5	Pyridine, 2-[(2dimethylamino)-ethyl]-2-phenylamino		
U164	56-04-2	4(1H) Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-	DW	
U180	930-55-2	Pyrrolidine, 1-nitroso	DW	D
U200	50-55-5	Reserpine	DW	?
U202	81-07-2	Saccharin and salts	DW	
U203	94-59-7	Safrole	DW	D
U204	7783-00-8	Seleniousacid	DW	O
U204	7783-00-8	Selenium dioxide	DW	O
U205	7488-56-4	Selenium sulfide	DW	R
U089	56-53-1	4,4'-Stilbenediol, alpha,alpha'-diethyl-	DW	
U206	18883-66-4	Streptozotocin	DW	
U205	7488-56-4	Sulfur selenide	DW	R
U213	109-99-9	Tetrahydrofuran	DW	I
U214	563-68-8	Thallium(1) acetate	DW	?
U215	6533-73-9	Thallium(1) carbonate	DW	?
U216	7791-12-0	Thallium(1) chloride	DW	?
U216	7791-12-0	Thallium chloride Tlcl	DW	?
U217	10102-45-1	Thallium(1) nitrate	DW	?
U218	62-55-5	Thioacetamide	DW	
U244	137-26-8	Thioperoxydicarbonic diamide [(H2N)C(S)]2S2, tetramethyl-	DW	D
U244	137-26-8	Thiram	DW	D
U244	137-26-8	Thiram	DW	D
U221	25376-45-8	Toluenediamine	DW	?
U328	95-53-4	o-Toluidine	DW	D
U353	106-49-0	p-Toluidine	DW	D
U222	636-21-5	o-Toluidine hydrochloride	DW	D
U011	61-82-5	1H-1,2,4-Triazol-3-amine	DW	D
U234	99-35-4	sym-Trinitrobenzene	DW	D R
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-	DW	D I
U248		Warfarin, & salts, when present at concentrations of 0.3% or less		

~~U200~~	~~50-55-5~~	~~Yohimban-16-carboxylic acid, 11, 17-di-methoxy-18-[(3,4,5-trimethoxy-benzoyl)oxy]-,methyl ester (3beta, 16 beta, 17alpha, 18 beta, 20alpha)~~	~~DW~~	~~?~~
~~U249~~		~~Zinc phosphide Zn3P2, when present at concentrations of 10% or less~~		

~~* EHW = Extremely Hazardous Waste~~
~~DW = Dangerous Waste~~
~~X = Toxic, Category X~~
~~A = Toxic, Category A~~
~~B = Toxic, Category B~~
~~C = Toxic, Category C~~
~~D = Toxic, Category D~~
~~? = Toxic, Category not determined~~
~~H = Persistent, Halogenated Hydrocarbon~~
~~O = Corrosive~~
~~P = Persistent, Polycyclic Aromatic Hydrocarbon~~
~~I = Ignitable~~
~~R = Reactive~~
~~TC = Toxicity Characteristic~~))

Discarded Chemical Products List

"P" Chemical Products

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is only listed for acute toxicity.

The "P" wastes and their corresponding Dangerous Waste Numbers are:

Dangerous Waste No.	Chemical Abstracts No.	Substance
P023	107-20-0	Acetaldehyde, chloro-
P002	591-08-2	Acetamide, N-(aminothioxomethyl)-
P057	640-19-7	Acetamide, 2-fluoro-
P058	62-74-8	Acetic acid, fluoro-, sodium salt
P002	591-08-2	1-Acetyl-2-thiourea
P003	107-02-8	Acrolein
P070	116-06-3	Aldicarb
P004	309-00-2	Aldrin
P005	107-18-6	Allyl alcohol
P006	20859-73-8	Aluminum phosphide (R,T)
P007	2763-96-4	5-(Aminomethyl)-3-isoxazolol
P008	504-24-5	4-Aminopyridine
P009	131-74-8	Ammonium picrate (R)
P119	7803-55-6	Ammonium vanadate
P099	506-61-6	Argentate(1-), bis(cyano-C)-, potassium
P010	7778-39-4	Arsenic acid H_3AsO_4
P012	1327-53-3	Arsenic oxide As_2O_3
P011	1303-28-2	Arsenic oxide As_2O_5
P011	1303-28-2	Arsenic pentoxide
P012	1327-53-3	Arsenic trioxide
P038	692-42-2	Arsine, diethyl-
P036	696-28-6	Arsonous dichloride, phenyl-
P054	151-56-4	Aziridine
P067	75-55-8	Aziridine, 2-methyl-
P013	542-62-1	Barium cyanide
P024	106-47-8	Benzenamine, 4-chloro-
P077	100-01-6	Benzenamine, 4-nitro-
P028	100-44-7	Benzene, (chloromethyl)-
P042	51-43-4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-, (R)-
P046	122-09-8	Benzeneethanamine, alpha,alpha-dimethyl-
P014	108-98-5	Benzenethiol
P001	[1]81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%
P028	100-44-7	Benzyl chloride
P015	7440-41-7	Beryllium
P017	598-31-2	Bromoacetone
P018	357-57-3	Brucine
P045	39196-18-4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O-[methylamino)carbonyl] oxime
P021	592-01-8	Calcium cyanide
P021	592-01-8	Calcium cyanide $Ca(CN)_2$
P022	75-15-0	Carbon disulfide
P095	75-44-5	Carbonic dichloride
P023	107-20-0	Chloroacetaldehyde
P024	106-47-8	p-Chloroaniline
P026	5344-82-1	1-(o-Chlorophenyl)thiourea
P027	542-76-7	3-Chloropropionitrile
P029	544-92-3	Copper cyanide
P029	544-92-3	Copper cyanide Cu(CN)
P030		Cyanides (soluble cyanide salts), not otherwise specified
P031	460-19-5	Cyanogen
P033	506-77-4	Cyanogen chloride
P033	506-77-4	Cyanogen chloride (CN)Cl
P034	131-89-5	2-Cyclohexyl-4,6-dinitrophenol
P016	542-88-1	Dichloromethyl ether
P036	696-28-6	Dichlorophenylarsine
P037	60-57-1	Dieldrin
P038	692-42-2	Diethylarsine
P041	311-45-5	Diethyl-p-nitrophenyl phosphate
P040	297-97-2	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	55-91-4	Diisopropylfluorophosphate (DFP)
P004	309-00-2	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa- chloro-1,4,4a,5,8,8a,-hexahydro-, (1alpha,4alpha,4abeta,5alpha, 8alpha,8abeta)-
P060	465-73-6	1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa- chloro-1,4,4a,5,8,8a-hexahydro-, (1alpha,4alpha,4abeta,5beta, 8beta,8abeta)-
P037	60-57-1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2aalpha,3beta, 6beta,6aalpha,7beta, 7aalpha)-
P051	[1]72-20-8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha,2beta,2abeta,3alpha, 6alpha,6abeta,7beta, 7aalpha)-, & metabolites
P044	60-51-5	Dimethoate
P046	122-09-8	alpha,alpha-Dimethylphenethylamine
P047	[1]534-52-1	4,6-Dinitro-o-cresol, & salts
P048	51-28-5	2,4-Dinitrophenol
P020	88-85-7	Dinoseb
P085	152-16-9	Diphosphoramide, octamethyl-
P111	107-49-3	Diphosphoric acid, tetraethyl ester
P039	298-04-4	Disulfoton

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P049	541-53-7	Dithiobiuret
P050	115-29-7	Endosulfan
P088	145-73-3	Endothall
P051	72-20-8	Endrin
P051	72-20-8	Endrin, & metabolites
P042	51-43-4	Epinephrine
P031	460-19-5	Ethanedinitrile
P066	16752-77-5	Ethanimidothioic acid, N-[[(methylamino)carbonyl]oxy]-, methyl ester
P101	107-12-0	Ethyl cyanide
P054	151-56-4	Ethyleneimine
P097	52-85-7	Famphur
P056	7782-41-4	Fluorine
P057	640-19-7	Fluoroacetamide
P058	62-74-8	Fluoroacetic acid, sodium salt
P065	628-86-4	Fulminic acid, mercury(2+) salt (R,T)
P059	76-44-8	Heptachlor
P062	757-58-4	Hexaethyl tetraphosphate
P116	79-19-6	Hydrazinecarbothioamide
P068	60-34-4	Hydrazine, methyl-
P063	74-90-8	Hydrocyanic acid
P063	74-90-8	Hydrogen cyanide
P096	7803-51-2	Hydrogen phosphide
P060	465-73-6	Isodrin
P007	2763-96-4	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	62-38-4	Mercury, (acetato-O)phenyl-
P065	628-86-4	Mercury fulminate (R,T)
P082	62-75-9	Methanamine, N-methyl-N-nitroso-
P064	624-83-9	Methane, isocyanato-
P016	542-88-1	Methane, oxybis[chloro-
P112	509-14-8	Methane, tetranitro- (R)
P118	75-70-7	Methanethiol, trichloro-
P050	115-29-7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P059	76-44-8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	16752-77-5	Methomyl
P068	60-34-4	Methyl hydrazine
P064	624-83-9	Methyl isocyanate
P069	75-86-5	2-Methyllactonitrile
P071	298-00-0	Methyl parathion
P072	86-88-4	alpha-Naphthylthiourea
P073	13463-39-3	Nickel carbonyl
P073	13463-39-3	Nickel carbonyl $Ni(CO)_4$, (T-4)-
P074	557-19-7	Nickel cyanide
P074	557-19-7	Nickel cyanide $Ni(CN)_2$
P075	[1]54-11-5	Nicotine, & salts
P076	10102-43-9	Nitric oxide
P077	100-01-6	p-Nitroaniline
P078	10102-44-0	Nitrogen dioxide
P076	10102-43-9	Nitrogen oxide NO
P078	10102-44-0	Nitrogen oxide NO_2
P081	55-63-0	Nitroglycerine (R)
P082	62-75-9	N-Nitrosodimethylamine
P084	4549-40-0	N-Nitrosomethylvinylamine
P085	152-16-9	Octamethylpyrophosphoramide
P087	20816-12-0	Osmium oxide OsO_4, (T-4)-
P087	20816-12-0	Osmium tetroxide
P088	145-73-3	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	56-38-2	Parathion
P034	131-89-5	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	51-28-5	Phenol, 2,4-dinitro-
P047	[1]534-52-1	Phenol, 2-methyl-4,6-dinitro-, & salts
P020	88-85-7	Phenol, 2-(1-methylpropyl)-4,6-dinitro-
P009	131-74-8	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P092	62-38-4	Phenylmercury acetate
P093	103-85-5	Phenylthiourea
P094	298-02-2	Phorate
P095	75-44-5	Phosgene
P096	7803-51-2	Phosphine
P041	311-45-5	Phosphoric acid, diethyl 4-nitrophenyl ester
P039	298-04-4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P094	298-02-2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P044	60-51-5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
P043	55-91-4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P089	56-38-2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P040	297-97-2	Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
P097	52-85-7	Phosphorothioic acid, O-[4-[(dimethylamino)sulfonyl]phenyl] O,O-dimethyl ester
P071	298-00-0	Phosphorothioic acid, O,O,-dimethyl O-(4-nitrophenyl) ester
P110	78-00-2	Plumbane, tetraethyl-
P098	151-50-8	Potassium cyanide
P098	151-50-8	Potassium cyanide K(CN)
P099	506-61-6	Potassium silver cyanide
P070	116-06-3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101	107-12-0	Propanenitrile
P027	542-76-7	Propanenitrile, 3-chloro-
P069	75-86-5	Propanenitrile, 2-hydroxy-2-methyl-
P081	55-63-0	1,2,3-Propanetriol, trinitrate (R)
P017	598-31-2	2-Propanone, 1-bromo-
P102	107-19-7	Propargyl alcohol
P003	107-02-8	2-Propenal
P005	107-18-6	2-Propen-1-ol
P067	75-55-8	1,2-Propylenimine
P102	107-19-7	2-Propyn-1-ol
P008	504-24-5	4-Pyridinamine
P075	[1]54-11-5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts
P114	12039-52-0	Selenious acid, dithallium(1+) salt
P103	630-10-4	Selenourea
P104	506-64-9	Silver cyanide
P104	506-64-9	Silver cyanide Ag(CN)
P105	26628-22-8	Sodium azide
P106	143-33-9	Sodium cyanide
P106	143-33-9	Sodium cyanide Na(CN)
P108	[1]57-24-9	Strychnidin-10-one, & salts
P018	357-57-3	Strychnidin-10-one, 2,3-dimethoxy-
P108	[1]57-24-9	Strychnine, & salts
P115	7446-18-6	Sulfuric acid, dithallium(1+) salt
P109	3689-24-5	Tetraethyldithiopyrophosphate
P110	78-00-2	Tetraethyl lead
P111	107-49-3	Tetraethyl pyrophosphate
P112	509-14-8	Tetranitromethane (R)
P062	757-58-4	Tetraphosphoric acid, hexaethyl ester
P113	1314-32-5	Thallic oxide
P113	1314-32-5	Thallium oxide Tl_2O_3
P114	12039-52-0	Thallium(I) selenite
P115	7446-18-6	Thallium(I) sulfate
P109	3689-24-5	Thiodiphosphoric acid, tetraethyl ester
P045	39196-18-4	Thiofanox
P049	541-53-7	Thioimidodicarbonic diamide $[(H_2N)C(S)]_2NH$
P014	108-98-5	Thiophenol
P116	79-19-6	Thiosemicarbazide
P026	5344-82-1	Thiourea, (2-chlorophenyl)-

P072	86-88-4	Thiourea, 1-naphthalenyl-
P093	103-85-5	Thiourea, phenyl-
P123	8001-35-2	Toxaphene
P118	75-70-7	Trichloromethanethiol
P119	7803-55-6	Vanadic acid, ammonium salt
P120	1314-62-1	Vanadium oxide V_2O_5
P120	1314-62-1	Vanadium pentoxide
P084	4549-40-0	Vinylamine, N-methyl-N-nitroso-
P001	[1]81-81-2	Warfarin, & salts, when present at concentrations greater than 0.3%
P121	557-21-1	Zinc cyanide
P121	557-21-1	Zinc cyanide $Zn(CN)_2$
P122	1314-84-7	Zinc phosphide Zn_3P_2, when present at concentrations greater than 10% (R,T)

FOOTNOTE: [1]CAS Number given for parent compound only.

"U" Chemical Products

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity.

The "U" wastes and their corresponding Dangerous Waste Numbers are:

Hazardous Waste No.	Chemical Abstracts No.	Substance
U001	75-07-0	Acetaldehyde (I)
U034	75-87-6	Acetaldehyde, trichloro-
U187	62-44-2	Acetamide, N-(4-ethoxyphenyl)-
U005	53-96-3	Acetamide, N-9H-fluoren-2-yl-
U240	[1]94-75-7	Acetic acid, (2,4-dichlorophenoxy)-, salts & esters
U112	141-78-6	Acetic acid ethyl ester (I)
U144	301-04-2	Acetic acid, lead(2+) salt
U214	563-68-8	Acetic acid, thallium(1+) salt
See F027	93-76-5	Acetic acid, (2,4,5-trichlorophenoxy)-
U002	67-64-1	Acetone (I)
U003	75-05-8	Acetonitrile (I,T)
U004	98-86-2	Acetophenone
U005	53-96-3	2-Acetylaminofluorene
U006	75-36-5	Acetyl chloride (C,R,T)
U007	79-06-1	Acrylamide
U008	79-10-7	Acrylic acid (I)
U009	107-13-1	Acrylonitrile
U011	61-82-5	Amitrole
U012	62-53-3	Aniline (I,T)
U136	75-60-5	Arsinic acid, dimethyl-
U014	492-80-8	Auramine
U015	115-02-6	Azaserine
U010	50-07-7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[(aminocarbonyl)oxy]methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, [1aS-(1aalpha, 8beta,8aalpha,8balpha)]-
U157	56-49-5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U016	225-51-4	Benz[c]acridine
U017	98-87-3	Benzal chloride
U192	23950-58-5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U018	56-55-3	Benz[a]anthracene
U094	57-97-6	Benz[a]anthracene, 7,12-dimethyl-
U012	62-53-3	Benzenamine (I,T)
U014	492-80-8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-
U049	3165-93-3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U093	60-11-7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U328	95-53-4	Benzenamine, 2-methyl-
U353	106-49-0	Benzenamine, 4-methyl-
U158	101-14-4	Benzenamine, 4,4'-methylenebis[2-chloro-
U222	636-21-5	Benzenamine, 2-methyl-, hydrochloride
U181	99-55-8	Benzenamine, 2-methyl-5-nitro-
U019	71-43-2	Benzene (I,T)
U038	510-15-6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U030	101-55-3	Benzene, 1-bromo-4-phenoxy-
U035	305-03-3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U037	108-90-7	Benzene, chloro-
U221	25376-45-8	Benzenediamine, ar-methyl-
U028	117-81-7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
U069	84-74-2	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	84-66-2	1,2-Benzenedicarboxylic acid, diethyl ester
U102	131-11-3	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	117-84-0	1,2-Benzenedicarboxylic acid, dioctyl ester
U070	95-50-1	Benzene, 1,2-dichloro-
U071	541-73-1	Benzene, 1,3-dichloro-
U072	106-46-7	Benzene, 1,4-dichloro-
U060	72-54-8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
U017	98-87-3	Benzene, (dichloromethyl)-
U223	26471-62-5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	1330-20-7	Benzene, dimethyl- (I,T)
U201	108-46-3	1,3-Benzenediol
U127	118-74-1	Benzene, hexachloro-
U056	110-82-7	Benzene, hexahydro- (I)
U220	108-88-3	Benzene, methyl-
U105	121-14-2	Benzene, 1-methyl-2,4-dinitro-
U106	606-20-2	Benzene, 2-methyl-1,3-dinitro-
U055	98-82-8	Benzene, (1-methylethyl)- (I)
U169	98-95-3	Benzene, nitro-
U183	608-93-5	Benzene, pentachloro-
U185	82-68-8	Benzene, pentachloronitro-
U020	98-09-9	Benzenesulfonic acid chloride (C,R)
U020	98-09-9	Benzenesulfonyl chloride (C,R)
U207	95-94-3	Benzene, 1,2,4,5-tetrachloro-
U061	50-29-3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U247	72-43-5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U023	98-07-7	Benzene, (trichloromethyl)-
U234	99-35-4	Benzene, 1,3,5-trinitro-
U021	92-87-5	Benzidine
U202	[1]81-07-2	1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts
U203	94-59-7	1,3-Benzodioxole, 5-(2-propenyl)-
U141	120-58-1	1,3-Benzodioxole, 5-(1-propenyl)-
U090	94-58-6	1,3-Benzodioxole, 5-propyl-
U064	189-55-9	Benzo[rst]pentaphene
U248	[1]81-81-2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations of 0.3% or less
U022	50-32-8	Benzo[a]pyrene
U197	106-51-4	p-Benzoquinone
U023	98-07-7	Benzotrichloride (C,R,T)
U085	1464-53-5	2,2'-Bioxirane
U021	92-87-5	[1,1'-Biphenyl]-4,4'-diamine
U073	91-94-1	[1,1'-Biphenyl]-4,4'-diamine,

PROPOSED

PROPOSED

		3,3'-dichloro-
U091	119-90-4	[1,1'-Biphenyl]-4,4'-diamine,
		3,3'-dimethoxy-
U095	119-93-7	[1,1'-Biphenyl]-4,4'-diamine,
		3,3'-dimethyl-
U225	75-25-2	Bromoform
U030	101-55-3	4-Bromophenyl phenyl ether
U128	87-68-3	1,3-Butadiene, 1,1,2,3,4,4-
		hexachloro-
U172	924-16-3	1-Butanamine, N-butyl-N-nitroso-
U031	71-36-3	1-Butanol (I)
U159	78-93-3	2-Butanone (I,T)
U160	1338-23-4	2-Butanone, peroxide (R,T)
U053	4170-30-3	2-Butenal
U074	764-41-0	2-Butene, 1,4-dichloro- (I,T)
U143	303-34-4	2-Butenoic acid, 2-methyl-, 7-
		[[2,3-dihydroxy- 2-(1-
		methoxyethyl)-3-methyl-1-
		oxobutoxy]methyl]- 2,3,5,7a-
		tetrahydro-1H-pyrrolizin-1-yl
		ester, [1S-[1alpha(Z),7(2S*,3R*),
		7aalpha]]-
U031	71-36-3	n-Butyl alcohol (I)
U136	75-60-5	Cacodylic acid
U032	13765-19-0	Calcium chromate
U238	51-79-6	Carbamic acid, ethyl ester
U178	615-53-2	Carbamic acid, methylnitroso-,
		ethyl ester
U097	79-44-7	Carbamic chloride, dimethyl-
U114	[T]111-54-6	Carbamodithioic acid, 1,2-
		ethanediylbis-, salts & esters
U062	2303-16-4	Carbamothioic acid, bis(1-
		methylethyl)-, S-(2,3-dichloro-2-
		propenyl) ester
U215	6533-73-9	Carbonic acid, dithallium(1+) salt
U033	353-50-4	Carbonic difluoride
U156	79-22-1	Carbonochloridic acid, methyl
		ester (I,T)
U033	353-50-4	Carbon oxyfluoride (R,T)
U211	56-23-5	Carbon tetrachloride
U034	75-87-6	Chloral
U035	305-03-3	Chlorambucil
U036	57-74-9	Chlordane, alpha & gamma
		isomers
U026	494-03-1	Chlornaphazin
U037	108-90-7	Chlorobenzene
U038	510-15-6	Chlorobenzilate
U039	59-50-7	p-Chloro-m-cresol
U042	110-75-8	2-Chloroethyl vinyl ether
U044	67-66-3	Chloroform
U046	107-30-2	Chloromethyl methyl ether
U047	91-58-7	beta-Chloronaphthalene
U048	95-57-8	o-Chlorophenol
U049	3165-93-3	4-Chloro-o-toluidine,
		hydrochloride
U032	13765-19-0	Chromic acid H_2CrO_4, calcium
		salt
U050	218-01-9	Chrysene
U051		Creosote
U052	1319-77-3	Cresol (Cresylic acid)
U053	4170-30-3	Crotonaldehyde
U055	98-82-8	Cumene (I)
U246	506-68-3	Cyanogen bromide (CN)Br
U197	106-51-4	2,5-Cyclohexadiene-1,4-dione
U056	110-82-7	Cyclohexane (I)
U129	58-89-9	Cyclohexane, 1,2,3,4,5,6-
		hexachloro-, (1alpha,2alpha,
		3beta,4alpha,5alpha,6beta)-
U057	108-94-1	Cyclohexanone (I)
U130	77-47-4	1,3-Cyclopentadiene, 1,2,3,4,5,5-
		hexachloro-
U058	50-18-0	Cyclophosphamide
U240	[T]94-75-7	2,4-D, salts & esters
U059	20830-81-3	Daunomycin
U060	72-54-8	DDD
U061	50-29-3	DDT
U062	2303-16-4	Diallate
U063	53-70-3	Dibenz[a,h]anthracene
U064	189-55-9	Dibenzo[a,i]pyrene
U066	96-12-8	1,2-Dibromo-3-chloropropane
U069	84-74-2	Dibutyl phthalate
U070	95-50-1	o-Dichlorobenzene
U071	541-73-1	m-Dichlorobenzene
U072	106-46-7	p-Dichlorobenzene
U073	91-94-1	3,3'-Dichlorobenzidine
U074	764-41-0	1,4-Dichloro-2-butene (I,T)
U075	75-71-8	Dichlorodifluoromethane
U078	75-35-4	1,1-Dichloroethylene
U079	156-60-5	1,2-Dichloroethylene
U025	111-44-4	Dichloroethyl ether
U027	108-60-1	Dichloroisopropyl ether
U024	111-91-1	Dichloromethoxy ethane
U081	120-83-2	2,4-Dichlorophenol
U082	87-65-0	2,6-Dichlorophenol
U084	542-75-6	1,3-Dichloropropene
U085	1464-53-5	1,2:3,4-Diepoxybutane (I,T)
U108	123-91-1	1,4-Diethyleneoxide
U028	117-81-7	Diethylhexyl phthalate
U086	1615-80-1	N,N'-Diethylhydrazine
U087	3288-58-2	O,O-Diethyl S-methyl
		dithiophosphate
U088	84-66-2	Diethyl phthalate
U089	56-53-1	Diethylstilbesterol
U090	94-58-6	Dihydrosafrole
U091	119-90-4	3,3'-Dimethoxybenzidine
U092	124-40-3	Dimethylamine (I)
U093	60-11-7	p-Dimethylaminoazobenzene
U094	57-97-6	7,12-Dimethylbenz[a]anthracene
U095	119-93-7	3,3'-Dimethylbenzidine
U096	80-15-9	alpha,alpha-
		Dimethylbenzylhydroperoxide (R)
U097	79-44-7	Dimethylcarbamoyl chloride
U098	57-14-7	1,1-Dimethylhydrazine
U099	540-73-8	1,2-Dimethylhydrazine
U101	105-67-9	2,4-Dimethylphenol
U102	131-11-3	Dimethyl phthalate
U103	77-78-1	Dimethyl sulfate
U105	121-14-2	2,4-Dinitrotoluene
U106	606-20-2	2,6-Dinitrotoluene
U107	117-84-0	Di-n-octyl phthalate
U108	123-91-1	1,4-Dioxane
U109	122-66-7	1,2-Diphenylhydrazine
U110	142-84-7	Dipropylamine (I)
U111	621-64-7	Di-n-propylnitrosamine
U041	106-89-8	Epichlorohydrin
U001	75-07-0	Ethanal (I)
U174	55-18-5	Ethanamine, N-ethyl-N-nitroso-
U155	91-80-5	1,2-Ethanediamine, N,N-
		dimethyl-N'-2-pyridinyl-N'-(2-
		thienylmethyl)-
U067	106-93-4	Ethane, 1,2-dibromo-
U076	75-34-3	Ethane, 1,1-dichloro-
U077	107-06-2	Ethane, 1,2-dichloro-
U131	67-72-1	Ethane, hexachloro-
U024	111-91-1	Ethane, 1,1'-
		[methylenebis(oxy)]bis[2-chloro-
U117	60-29-7	Ethane, 1,1'-oxybis-(I)
U025	111-44-4	Ethane, 1,1'-oxybis[2-chloro-
U184	76-01-7	Ethane, pentachloro-
U208	630-20-6	Ethane, 1,1,1,2-tetrachloro-
U209	79-34-5	Ethane, 1,1,2,2-tetrachloro-
U218	62-55-5	Ethanethioamide
U226	71-55-6	Ethane, 1,1,1-trichloro-
U227	79-00-5	Ethane, 1,1,2-trichloro-
U359	110-80-5	Ethanol, 2-ethoxy-
U173	1116-54-7	Ethanol, 2,2'-(nitrosoimino)bis-
U004	98-86-2	Ethanone, 1-phenyl-
U043	75-01-4	Ethene, chloro-
U042	110-75-8	Ethene, (2-chloroethoxy)-
U078	75-35-4	Ethene, 1,1-dichloro-
U079	156-60-5	Ethene, 1,2-dichloro-, (E)-
U210	127-18-4	Ethene, tetrachloro-

U228	79-01-6	Ethene, trichloro-
U112	141-78-6	Ethyl acetate (I)
U113	140-88-5	Ethyl acrylate (I)
U238	51-79-6	Ethyl carbamate (urethane)
U117	60-29-7	Ethyl ether (I)
U114	111-54-6	Ethylenebisdithiocarbamic acid, salts & esters
U067	106-93-4	Ethylene dibromide
U077	107-06-2	Ethylene dichloride
U359	110-80-5	Ethylene glycol monoethyl ether
U115	75-21-8	Ethylene oxide (I,T)
U116	96-45-7	Ethylenethiourea
U076	75-34-3	Ethylidene dichloride
U118	97-63-2	Ethyl methacrylate
U119	62-50-0	Ethyl methanesulfonate
U120	206-44-0	Fluoranthene
U122	50-00-0	Formaldehyde
U123	64-18-6	Formic acid (C,T)
U124	110-00-9	Furan (I)
U125	98-01-1	2-Furancarboxaldehyde (I)
U147	108-31-6	2,5-Furandione
U213	109-99-9	Furan, tetrahydro-(I)
U125	98-01-1	Furfural (I)
U124	110-00-9	Furfuran (I)
U206	18883-66-4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206	18883-66-4	D-Glucose, 2-deoxy-2-[[(methylnitrosoamino)-carbonyl]amino]-
U126	765-34-4	Glycidylaldehyde
U163	70-25-7	Guanidine, N-methyl-N'-nitro-N-nitroso-
U127	118-74-1	Hexachlorobenzene
U128	87-68-3	Hexachlorobutadiene
U130	77-47-4	Hexachlorocyclopentadiene
U131	67-72-1	Hexachloroethane
U132	70-30-4	Hexachlorophene
U243	1888-71-7	Hexachloropropene
U133	302-01-2	Hydrazine (R,T)
U086	1615-80-1	Hydrazine, 1,2-diethyl-
U098	57-14-7	Hydrazine, 1,1-dimethyl-
U099	540-73-8	Hydrazine, 1,2-dimethyl-
U109	122-66-7	Hydrazine, 1,2-diphenyl-
U134	7664-39-3	Hydrofluoric acid (C,T)
U134	7664-39-3	Hydrogen fluoride (C,T)
U135	7783-06-4	Hydrogen sulfide
U135	7783-06-4	Hydrogen sulfide H_2S
U096	80-15-9	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U116	96-45-7	2-Imidazolidinethione
U137	193-39-5	Indeno[1,2,3-cd]pyrene
U190	85-44-9	1,3-Isobenzofurandione
U140	78-83-1	Isobutyl alcohol (I,T)
U141	120-58-1	Isosafrole
U142	143-50-0	Kepone
U143	303-34-4	Lasiocarpine
U144	301-04-2	Lead acetate
U146	1335-32-6	Lead, bis(acetato-O)tetrahydroxytri-
U145	7446-27-7	Lead phosphate
U146	1335-32-6	Lead subacetate
U129	58-89-9	Lindane
U163	70-25-7	MNNG
U147	108-31-6	Maleic anhydride
U148	123-33-1	Maleic hydrazide
U149	109-77-3	Malononitrile
U150	148-82-3	Melphalan
U151	7439-97-6	Mercury
U152	126-98-7	Methacrylonitrile (I, T)
U092	124-40-3	Methanamine, N-methyl- (I)
U029	74-83-9	Methane, bromo-
U045	74-87-3	Methane, chloro- (I, T)
U046	107-30-2	Methane, chloromethoxy-
U068	74-95-3	Methane, dibromo-
U080	75-09-2	Methane, dichloro-
U075	75-71-8	Methane, dichlorodifluoro-
U138	74-88-4	Methane, iodo-
U119	62-50-0	Methanesulfonic acid, ethyl ester
U211	56-23-5	Methane, tetrachloro-
U153	74-93-1	Methanethiol (I, T)
U225	75-25-2	Methane, tribromo-
U044	67-66-3	Methane, trichloro-
U121	75-69-4	Methane, trichlorofluoro-
U036	57-74-9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U154	67-56-1	Methanol (I)
U155	91-80-5	Methapyrilene
U142	143-50-0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U247	72-43-5	Methoxychlor
U154	67-56-1	Methyl alcohol (I)
U029	74-83-9	Methyl bromide
U186	504-60-9	1-Methylbutadiene (I)
U045	74-87-3	Methyl chloride (I,T)
U156	79-22-1	Methyl chlorocarbonate (I,T)
U226	71-55-6	Methyl chloroform
U157	56-49-5	3-Methylcholanthrene
U158	101-14-4	4,4'-Methylenebis(2-chloroaniline)
U068	74-95-3	Methylene bromide
U080	75-09-2	Methylene chloride
U159	78-93-3	Methyl ethyl ketone (MEK) (I,T)
U160	1338-23-4	Methyl ethyl ketone peroxide (R,T)
U138	74-88-4	Methyl iodide
U161	108-10-1	Methyl isobutyl ketone (I)
U162	80-62-6	Methyl methacrylate (I,T)
U161	108-10-1	4-Methyl-2-pentanone (I)
U164	56-04-2	Methylthiouracil
U010	50-07-7	Mitomycin C
U059	20830-81-3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U167	134-32-7	1-Naphthalenamine
U168	91-59-8	2-Naphthalenamine
U026	494-03-1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U165	91-20-3	Naphthalene
U047	91-58-7	Naphthalene, 2-chloro-
U166	130-15-4	1,4-Naphthalenedione
U236	72-57-1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'- dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U166	130-15-4	1,4-Naphthoquinone
U167	134-32-7	alpha-Naphthylamine
U168	91-59-8	beta-Naphthylamine
U217	10102-45-1	Nitric acid, thallium(1+) salt
U169	98-95-3	Nitrobenzene (I,T)
U170	100-02-7	p-Nitrophenol
U171	79-46-9	2-Nitropropane (I,T)
U172	924-16-3	N-Nitrosodi-n-butylamine
U173	1116-54-7	N-Nitrosodiethanolamine
U174	55-18-5	N-Nitrosodiethylamine
U176	759-73-9	N-Nitroso-N-ethylurea
U177	684-93-5	N-Nitroso-N-methylurea
U178	615-53-2	N-Nitroso-N-methylurethane
U179	100-75-4	N-Nitrosopiperidine
U180	930-55-2	N-Nitrosopyrrolidine
U181	99-55-8	5-Nitro-o-toluidine
U193	1120-71-4	1,2-Oxathiolane, 2,2-dioxide
U058	50-18-0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U115	75-21-8	Oxirane (I,T)
U126	765-34-4	Oxiranecarboxyaldehyde

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U041	106-89-8	Oxirane, (chloromethyl)-
U182	123-63-7	Paraldehyde
U183	608-93-5	Pentachlorobenzene
U184	76-01-7	Pentachloroethane
U185	82-68-8	Pentachloronitrobenzene (PCNB)
See F027	87-86-5	Pentachlorophenol
U161	108-10-1	Pentanol, 4-methyl-
U186	504-60-9	1,3-Pentadiene (I)
U187	62-44-2	Phenacetin
U188	108-95-2	Phenol
U048	95-57-8	Phenol, 2-chloro-
U039	59-50-7	Phenol, 4-chloro-3-methyl-
U081	120-83-2	Phenol, 2,4-dichloro-
U082	87-65-0	Phenol, 2,6-dichloro-
U089	56-53-1	Phenol, 4,4'-(1,2-diethyl-1,2-ethenediyl)bis-, (E)-
U101	105-67-9	Phenol, 2,4-dimethyl-
U052	1319-77-3	Phenol, methyl-
U132	70-30-4	Phenol, 2,2'-methylenebis[3,4,6-trichloro-
U170	100-02-7	Phenol, 4-nitro-
See F027	87-86-5	Phenol, pentachloro-
See F027	58-90-2	Phenol, 2,3,4,6-tetrachloro-
See F027	95-95-4	Phenol, 2,4,5-trichloro-
See F027	88-06-2	Phenol, 2,4,6-trichloro-
U150	148-82-3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U145	7446-27-7	Phosphoric acid, lead(2+) salt (2:3)
U087	3288-58-2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U189	1314-80-3	Phosphorus sulfide (R)
U190	85-44-9	Phthalic anhydride
U191	109-06-8	2-Picoline
U179	100-75-4	Piperidine, 1-nitroso-
U192	23950-58-5	Pronamide
U194	107-10-8	1-Propanamine (I,T)
U111	621-64-7	1-Propanamine, N-nitroso-N-propyl-
U110	142-84-7	1-Propanamine, N-propyl- (I)
U066	96-12-8	Propane, 1,2-dibromo-3-chloro-
U083	78-87-5	Propane, 1,2-dichloro-
U149	109-77-3	Propanedinitrile
U171	79-46-9	Propane, 2-nitro- (I,T)
U027	108-60-1	Propane, 2,2'-oxybis[2-chloro-
U193	1120-71-4	1,3-Propane sultone
See F027	93-72-1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
U235	126-72-7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U140	78-83-1	1-Propanol, 2-methyl- (I,T)
U002	67-64-1	2-Propanone (I)
U007	79-06-1	2-Propenamide
U084	542-75-6	1-Propene, 1,3-dichloro-
U243	1888-71-7	1-Propene, 1,1,2,3,3,3-hexachloro-
U009	107-13-1	2-Propenenitrile
U152	126-98-7	2-Propenenitrile, 2-methyl- (I,T)
U008	79-10-7	2-Propenoic acid (I)
U113	140-88-5	2-Propenoic acid, ethyl ester (I)
U118	97-63-2	2-Propenoic acid, 2-methyl-, ethyl ester
U162	80-62-6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U194	107-10-8	n-Propylamine (I,T)
U083	78-87-5	Propylene dichloride
U148	123-33-1	3,6-Pyridazinedione, 1,2-dihydro-
U196	110-86-1	Pyridine
U191	109-06-8	Pyridine, 2-methyl-
U237	66-75-1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2- chloroethyl)amino]-
U164	56-04-2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	930-55-2	Pyrrolidine, 1-nitroso-
U200	50-55-5	Reserpine
U201	108-46-3	Resorcinol
U202	[1]81-07-2	Saccharin, & salts
U203	94-59-7	Safrole
U204	7783-00-8	Selenious acid
U204	7783-00-8	Selenium dioxide
U205	7488-56-4	Selenium sulfide
U205	7488-56-4	Selenium sulfide SeS_2 (R,T)
U015	115-02-6	L-Serine, diazoacetate (ester)
See F027	93-72-1	Silvex (2,4,5-TP)
U206	18883-66-4	Streptozotocin
U103	77-78-1	Sulfuric acid, dimethyl ester
U189	1314-80-3	Sulfur phosphide (R)
See F027	93-76-5	2,4,5-T
U207	95-94-3	1,2,4,5-Tetrachlorobenzene
U208	630-20-6	1,1,1,2-Tetrachloroethane
U209	79-34-5	1,1,2,2-Tetrachloroethane
U210	127-18-4	Tetrachloroethylene
See F027	58-90-2	2,3,4,6-Tetrachlorophenol
U213	109-99-9	Tetrahydrofuran (I)
U214	563-68-8	Thallium(I) acetate
U215	6533-73-9	Thallium(I) carbonate
U216	7791-12-0	Thallium(I) chloride
U216	7791-12-0	Thallium chloride TlCl
U217	10102-45-1	Thallium(I) nitrate
U218	62-55-5	Thioacetamide
U153	74-93-1	Thiomethanol (I,T)
U244	137-26-8	Thioperoxydicarbonic diamide $[(H_2N)C(S)]_2S_2$, tetramethyl-
U219	62-56-6	Thiourea
U244	137-26-8	Thiram
U220	108-88-3	Toluene
U221	25376-45-8	Toluenediamine
U223	26471-62-5	Toluene diisocyanate (R,T)
U328	95-53-4	o-Toluidine
U353	106-49-0	p-Toluidine
U222	636-21-5	o-Toluidine hydrochloride
U011	61-82-5	1H-1,2,4-Triazol-3-amine
U227	79-00-5	1,1,2-Trichloroethane
U228	79-01-6	Trichloroethylene
U121	75-69-4	Trichloromonofluoromethane
See F027	95-95-4	2,4,5-Trichlorophenol
See F027	88-06-2	2,4,6-Trichlorophenol
U234	99-35-4	1,3,5-Trinitrobenzene (R,T)
U182	123-63-7	1,3,5-Trioxane, 2,4,6-trimethyl-
U235	126-72-7	Tris(2,3-dibromopropyl) phosphate
U236	72-57-1	Trypan blue
U237	66-75-1	Uracil mustard
U176	759-73-9	Urea, N-ethyl-N-nitroso-
U177	684-93-5	Urea, N-methyl-N-nitroso-
U043	75-01-4	Vinyl chloride
U248	[1]81-81-2	Warfarin, & salts, when present at concentrations of 0.3% or less
U239	1330-20-7	Xylene (I)
U200	50-55-5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester, (3beta,16beta,17alpha, 18beta,20alpha)-
U249	1314-84-7	Zinc phosphide Zn_3P_2, when present at concentrations of 10% or less

FOOTNOTE: [1]CAS Number given for parent compound only.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-9904 Dangerous waste sources list. The following Hazard Codes are used to indicate the basis EPA used for listing the classes or types of wastes listed in this section:

Ignitable Waste	(I)
Corrosive Waste	(C)
Reactive Waste	(R)
Toxicity Characteristic Waste	(E)
Acute Hazardous Waste	(H)
Toxic Waste	(T)

DANGEROUS WASTE SOURCES LIST

Dangerous Waste No.	Sources

Nonspecific Sources

Generic:

F001 The following spent halogenated solvents used in degreasing: Tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; ((~~and sludges from the recovery of these solvents in degreasing operations. (See footnote 1, below.)~~)) all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)

F002 The following spent halogenated solvents: Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, chlorobenzene, 1,1,2-trichloro- 1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2 trichloroethane; ((~~and the still bottoms from the recovery of these solvents~~)) all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above halogenated solvents or those listed in F001, F004, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (((~~See footnote 1, below.~~))) (T)

F003 The following spent ((~~nonhalogenated~~)) non-halogenated solvents: Xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; ((~~and the still bottoms from the recovery of these solvents~~)) all spent solvent mixtures/blends containing, before use, only the above spent non-halogenated solvents; and all spent solvent mixtures/blends containing, before use, one or more of the above non-halogenated solvents, and, a total of ten percent or more (by volume) of one or more of those solvents listed in F001, F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I)

F004 The following spent ((~~nonhalogenated~~)) non-halogenated solvents: Cresols and cresylic acid, nitrobenzene; ((~~and the still bottoms from the recovery of these solvents~~)) all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (T)

F005 The following spent ((~~nonhalogenated~~)) non-halogenated solvents: Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; ((~~and the still bottoms from the recovery of these solvents~~)) all spent solvent mixtures/blends containing, before use, a total of ten percent or more (by volume) of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, or F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. (I,T)

F006 Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. (T)

F007 Spent cyanide plating bath solutions from electroplating operations. (R,T)

F008 Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process. (R,T)

F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process. (R,T)

F010 Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process. (R,T)

F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations. (R,T)

F012 Quenching wastewater treatment sludges from metal heat-treating operations where cyanides are used in the process. (T)

F019 Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. (T)

F020 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (See footnote 2, below.) (H)

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F021 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. (See footnote 2, below.) (H)

F022 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. (See footnote 2, below.) (H)

F023 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (See footnote 2, below.) (This listing does not include wastes from equipment used only for the production or use of hexachlorophene from highly purified 2,4,5-trichlorophenol.) (H)

F024 Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of certain chlorinated aliphatic hydrocarbons by radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. ((~~(See footnote 1, below).~~)) (This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed under specific sources, below.) (T)

F025 Condensed light ends, spent filters and filter aids, and spent desiccant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. (T)

F026 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. (See footnote 2, below.) (H)

F027 Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (See footnote 2, below.) (This listing does not include formulations containing hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.) (H)

F028 Residues resulting from the incineration or thermal treatment of soil contaminated with nonspecific sources wastes F020, F021, F022, F023, F026 and F027. (T)

F032 Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that currently use or have previously used chlorophenolic formulations (except potentially cross-contaminated wastes that have had the F032 waste code deleted in accordance with WAC 173-303-083 or potentially cross-contaminated wastes that are otherwise currently regulated as dangerous wastes (i.e., F034 or F035), and where the generator does not resume or initiate use of chlorophenolic formulations). This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)

F034 Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use creosote formulations. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)

F035 Wastewaters (except those that have not come into contact with process contaminants), process residuals, preservative drippage, and spent formulations from wood preserving processes generated at plants that use inorganic preservatives containing arsenic or chromium. This listing does not include K001 bottom sediment sludge from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol. (T)

F037 Petroleum refinery primary oil/water/solids separation sludge-Any sludge generated from the gravitational separation of oil/water/solids during the storage or treatment of process wastewaters and oily cooling wastewaters from petroleum refineries. Such sludges include, but are not limited to, those generated in: Oil/water/solids separators; tanks and impoundments; ditches and other conveyances; sumps; and stormwater units receiving dry weather flow. Sludge generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges generated in aggressive biological treatment units as defined in footnote 2, below (including sludges generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and K051 wastes are not included in this listing. (T)

F038 Petroleum refinery secondary (emulsified) oil/water/solids separation sludge-Any sludge and/or float generated from the physical and/or chemical separation of oil/water/solids in process wastewaters and oily cooling wastewaters from petroleum refineries. Such wastes include, but are not limited to, all sludges and floats generated in: Induced air flotation (IAF) units, tanks and impoundments, and all sludges generated in DAF units. Sludges generated in stormwater units that do not receive dry weather flow, sludges generated from noncontact once-through cooling waters segregated for treatment from other process or oily cooling waters, sludges and floats generated in aggressive biological treatment units as defined in footnote 2, below (including sludges and floats generated in one or more additional units after wastewaters have been treated in aggressive biological treatment units) and F037, K048, and K051 wastes are not included in this listing. (T)

F039 Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as dangerous under WAC 173-303-9903, 173-303-9904, and 173-303-9905. (Leachate resulting from the disposal of one or more of the following dangerous wastes, and no other dangerous wastes, retains its Dangerous Waste Number(s): F020, F021, F022, F026, F027, and/or F028.) (T)

Specific Sources

Wood Preservation:

K001 Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. (((~~See footnote 1, below.~~))) (T)

Inorganic Pigments:

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments. (T)

K003 Wastewater treatment sludge from the production of molybdate orange pigments. (T)

K004 Wastewater treatment sludge from the production of zinc yellow pigments. (T)

K005 Wastewater treatment sludge from the production of chrome green pigments. (T)

K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated). (T)

K007 Wastewater treatment sludge from the production of iron blue pigments. (T)

K008 Oven residue from the production of chrome oxide green pigments. (T)

Organic Chemicals:

K009 Distillation bottoms from the production of acetaldehyde from ethylene. (T)

K010 Distillation side cuts from the production of acetaldehyde from ethylene. (T)

K011 Bottom stream from the wastewater stripper in the production of acrylonitrile. (R,T)

K013 Bottom stream from the acetonitrile column in the production of acrylonitrile. (R,T)

K014 Bottoms from the acetonitrile purification column in the production of acrylonitrile. (T)

K015 Still bottoms from the distillation of benzyl chloride. (((~~See footnote 1, below.~~))) (T)

K016 Heavy ends or distillation residues from the production of carbon tetrachloride. (((~~See footnote 1, below.~~))) (T)

K017 Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. (((~~See footnote 1, below.~~))) (T)

K018 Heavy ends from the fractionation column in ethyl chloride production. (((~~See footnote 1, below.~~))) (T)

K019 Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. (((~~See footnote 1, below.~~))) (T)

K020 Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. (((~~See footnote 1, below.~~))) (T)

K021 Aqueous spent antimony catalyst waste from fluoromethanes production. (((~~See footnote 1, below.~~))) (T)

K022 Distillation bottom tars from the production of phenol/acetone from cumene. (T)

K023 Distillation light ends from the production of phthalic anhydride from naphthalene. (T)

K024 Distillation bottoms from the production of phthalic anhydride from naphthalene. (T)

K093 Distillation light ends from the production of phthalic anhydride from ortho-xylene. (T)

K094 Distillation bottoms from the production of phthalic anhydride from ortho-xylene. (T)

K025 Distillation bottoms from the production of nitrobenzene by the nitration of benzene. (T)

K026 Stripping still tails from the production of methyl ethyl pyridines. (T)

K027 Centrifuge and distillation residues from toluene diisocyanate production. (R,T)

K028 Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. (((~~See footnote 1, below.~~))) (T)

K029 Waste from the product steam stripper in the production of 1,1,1-trichloroethane. (((~~See footnote 1, below.~~))) (T)

K095 Distillation bottoms from the production of 1,1,1-trichloroethane. (((~~See footnote 1, below.~~))) (T)

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K096 Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. (((~~See footnote 1, below.~~))) (T)

K030 Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. (((~~See footnote 1, below.~~))) (T)

K083 Distillation bottoms from aniline production. (T)

K103 Process residues from aniline extraction from the production of aniline. (T)

K104 Combined wastewater streams generated from nitrobenzene/aniline production. (T)

K085 Distillation of fractionation column bottoms from the production of chlorobenzenes. (((~~See footnote 1, below.~~))) (T)

K105 Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. (((~~See footnote 1, below.~~))) (T)

K107 Column bottoms from product separation from the production of 1,1-dimethyl-hydrazine (UDMH) from carboxylic acid hydrazines. (C,T)

K108 Condensed column overheads from product separation and condensed reactor vent gases from the production of 1,1-dimethylhydrazine (UDMH) from the carboxylic acid hydrazides. (I,T)

K109 Spent filter cartridges from product purification from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)

K110 Condensed column overheads from intermediate separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides. (T)

K111 Product washwaters from the production of dinitrotoluene via nitration of toluene. (C,T)

K112 Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)

K113 Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)

K114 Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)

K115 Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. (T)

K116 Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. (((~~See footnote 1, below.~~))) (T)

K117 Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene. (T)

K118 Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)

K136 Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. (T)

K149 Distillation bottoms from the production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (This waste does not include still bottoms from the distillation of benzyl chloride.) (T)

K150 Organic residuals, excluding spent carbon adsorbent, from the spent chlorine gas and hydrochloric acid recovery processes associated with the production of alpha- (or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)

K151 Wastewater treatment sludges, excluding neutralization and biological sludges, generated during the treatment of wastewaters from the production of alpha-(or methyl-) chlorinated toluenes, ring-chlorinated toluenes, benzoyl chlorides, and compounds with mixtures of these functional groups. (T)

Explosives:

K044 Wastewater treatment sludges from the manufacturing and processing of explosives. (R)

K045 Spent carbon from the treatment of wastewater containing explosives. (R)

K046 Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds. (T)

K047 Pink/red water from TNT operations. (R)

Inorganic Chemicals:

K071 Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. (T)

K073 Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. (((~~See footnote 1, below.~~))) (T)

K106 Wastewater treatment sludge from the mercury cell process in chlorine production. (T)

Petroleum Refining:

K048 Dissolved air flotation (DAF) float from the petroleum refining industry. (T)

K049 Slop oil emulsion solids from the petroleum refining industry. (T)

K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry. (T)

K051 API separator sludge from the petroleum refining industry. (T)

K052 Tank bottoms (leaded) from the petroleum refining industry. (T)

Iron and Steel:

K061 Emission control dust/sludge from the primary production of steel in electric furnaces. (T)

K062 Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332). (C,T)

Pesticides:

K031 Byproduct salts generated in the production of MSMA and cacodylic acid. (T)

K032 Wastewater treatment sludge from the production of chlordane. (((~~See footnote 3, below.~~))) (T)

K033 Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. (((~~See footnote 3, below.~~))) (T)

K034 Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. (((~~See footnote 3, below.~~))) (T)

K097 Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. (((~~See footnote 3, below.~~))) (T)

K035 Wastewater treatment sludges generated in the production of creosote. (T)

K036 Still bottoms from toluene reclamation distillation in the production of disulfoton. (T)

K037 Wastewater treatment sludges from the production of disulfoton. (T)

K038 Wastewater from the washing and stripping of phorate production. (((~~See footnote 3, below.~~))) (T)

K039 Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. (((~~See footnote 3, below.~~))) (T)

K040 Wastewater treatment sludge from the production of phorate. (((~~See footnote 3, below.~~))) (T)

K041 Wastewater treatment sludge from the production of toxaphene. (((~~See footnote 3, below.~~))) (T)

K098 Untreated process wastewater from the production of toxaphene. (((~~See footnote 3, below.~~))) (T)

K042 Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. (((~~See footnote 1, below.~~))) (T)

K043 2,6-Dichlorophenol waste from the production of 2,4-D. (((~~See footnote 1, below.~~))) (T)

K099 Untreated wastewater from the production of 2,4-D. (((~~See footnote 1, below.~~))) (T)

K123 Process wastewater (including supernates, filtrates, and wastewaters) from the production of ethylenebisdithiocarbamic acid and its salts. (T)

K124 Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts. (C,T)

K125 Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts. (T)

K126 Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts. (T)

K131 Wastewater from the reactor and spent sulfuric acid from the acid dryer from the production of methyl bromide. (C,T)

K132 Spent absorbent and wastewater separator solids from the production of methyl bromide. (T)

Primary Copper:

K064 Acid plant blowdown slurry/sludge resulting from the thickening of blowdown slurry from primary copper production. (T)

Primary Lead:

K065 Surface impoundment solids contained in and dredged from surface impoundments at primary lead smelting facilities. (T)

Primary Zinc:

K066 Sludge from treatment of process wastewater and/or acid plant blowdown from primary zinc production. (T)

Primary Aluminum:

K088 Spent potliners from primary aluminum reduction. (T)

Ferroalloys:

K090 Emission control dust or sludge from ferrochromium-silicon production. (T)

K091 Emission control dust or sludge from ferrochromium production. (T)

Secondary Lead:

K069 Emission control dust/sludge from secondary lead smelting. (T)

K100 Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. (T)

Veterinary Pharmaceuticals:

K084 Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)

K101 Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)

K102 Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. (T)

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Ink Formulation:

K086 Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. (T)

Coking:

K060 Ammonia still-lime sludge from coking operations. (T)

K087 Decanter tank tar sludge from coking operations. (T)

Footnotes

((~~1 These wastes contain or may contain halogenated hydrocarbons. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than one percent of these listed halogenated hydrocarbons to designate their waste EHW.~~

~~2~~)) For wastes listed with the dangerous waste numbers F020, F021, F022, F023, F026, or F027 the quantity exclusion limit is 2.2 lbs. (1 kg) per month or per batch.

((~~3 These wastes contain or may contain X Category toxic constituents. Although WAC 173-303-082 states that these wastes are DW, WAC 173-303-070(5), special knowledge, requires generators who know that their waste contains greater than 0.1 percent of these listed toxic constituents to designate their waste~~))

2 Listing Specific Definitions:

1 For the purposes of the F037 and F038 listings, oil/water/solids is defined as oil and/or water and/or solids.

2a For the purposes of the F037 and F038 listings, aggressive biological treatment units are defined as units which employ one of the following four treatment methods: Activated sludge; trickling filter; rotating biological contactor for the continuous accelerated biological oxidation of wastewaters; or high-rate aeration. High-rate aeration is a system of surface impoundments or tanks, in which intense mechanical aeration is used to completely mix the wastes, enhance biological activity, and i the units employs a minimum of 6 hp per million gallons of treatment volume; and either ii the hydraulic retention time of the unit is no longer than 5 days; or iii the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is a dangerous waste by the Toxicity Characteristic.

b Generators and treatment, storage and disposal facilities have the burden of proving that their sludges are exempt from listing as F037 and F038 wastes under this definition. Generators and treatment, storage and disposal facilities must maintain, in their operating or other on-site records, documents and data sufficient to prove that: i The unit is an aggressive biological treatment unit as defined in this subsection; and ii the sludges sought to be exempted from the definitions of F037 and/or F038 were actually treated in the aggressive biological treatment unit.

3a For the purposes of the F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement.

b For the purposes of the F038 listing,

i Sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement and

ii Floats are considered to be generated at the moment they are formed in the top of the unit.

State Sources

W001 ((~~The following wastes generated from the salvaging, rebuilding, or discarding of transformers, bushing, or capacitors which contain polychlorinated biphenyls (PCB): Cooling and insulating fluids; cores, including core papers, from unrinsed transformers and capacitors; transformers and capacitors which will no longer be used for their intended use, except for those transformers or capacitors which have been rinsed; and, rinsate from the rinsing of transformers and capacitors. For the purposes of this listing, the rinsing of PCB containing items shall be conducted as follows: First, the item is drained of all free flowing liquid; second, the item is filled with solvent and allowed to stand for at least eighteen hours; last, the item is drained thoroughly and the solvent is collected. Solvents may include kerosene, xylene, toluene and other solvents in which PCB are readily soluble.~~)) Discarded transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater (except when drained of all free flowing liquid) and the following wastes generated from the salvaging, rebuilding, or discarding of transformers, capacitors or bushings containing polychlorinated biphenyls (PCB) at concentrations of 2 parts per million or greater: Cooling and insulating fluids and cores, including core papers. (Note—Certain PCB wastes are excluded from this listing under WAC 173-303-071 (3)(k). The generator should check that section to determine if ((~~his~~)) their PCB waste is excluded from the requirements of chapter 173-303 WAC.)

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-9905 Dangerous waste constituents list.

Acetic Acid,2,4,5-trichlorophenoxy-, salts and esters
(2,4,5-T, salts and esters)
Acetonitrile [Ethanenitrile]
Acetophenone (Ethanone, 1-phenyl)

-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts (Warfarin)
2-Acetylaminofluorene (Acetemide,N-9H- fluoren-2-yl)-)
Acetyl chloride (Ethanoyl chloride)
1-Acetyl-2-thiourea (Acetamide, N-(aminothioxomethyl)-)
Acrolein (2-Propenal)
Acrylamide (2-Propenamide)
Acrylonitrile (2-Propenenitrile)
Aflatoxins
Aldrin (1,2,3,4,10,10-Hexachloro- 1,4,4a,5,8,8a,-hexahydro-endo,exo- 1,4:5,8-Dimethanonaphthalene)
Allyl alcohol (2-Propen-1-ol)
Allyl chloride (1-Propane, 3-chloro)
Aluminum phosphide
4-Aminobiphenyl ([1,1'-Biphenyl]-4-amine)
6-Amino-1,1a,2,8,8a,8b-hexahydro-8-(hydroxymethyl)-8a-methoxy-5-methyl- carbamate azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, (ester) (Mitomycin C) (Azirino[2'3':3,4]pyrrolo(1,2-a)indole-4,7- dione, 6-amino-8[
4-Aminopyridine(4-Pyridinamine)
Arsenic and compounds, N.O.S.*
Barium and compounds, N.O.S.*
Barium cyanide
Benz[c]acridine (3,4-Benzacridine)
Benz[a]anthracene (1,2-Benzanthracene)
Benzene (Cyclohexatriene)
Benzenearsonic acid (Arsonic acid, phenyl-)
Benzene, 2-amino-1-methyl (o-Toluidine)
Benzene, 4-amino-1-methyl (p-Toluidine)
Benzene, dichloromethyl- (Benzal chloride)
Benzenethoil (Thiophenol)
Benzidine ([1,1'-Biphenyl]-4,4'diamine)
Benzo[b]fluoranthene (2,3-Benzofluoranthene)
Benzo(k)fluoranthene
Benzo[j]fluoranthene (7,8-Benzofluoranthene)
Benzo[a]pyrene (3,4-Benzopyrene)
p Benzoquinone (1,4-Cyclohexadienedione)
Benzotrichloride (Benzene, trichloromethyl-)
Benzyl chloride (Benzene, (chloromethyl)-)
Beryllium and compounds, N.O.S.*
Bis(2-chloroethoxy)methane (Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-])
Bis(2-chloroethyl) ether (Ethane, 1,1'-oxybis[2-chloro-])
N,N-Bis(2-chloroethyl)-2-naphthylamine (Chlornaphazine)
Bis(2-chloroisopropyl) ether (Propane, 2,2'-oxybis[2-chloro-])
Bis(chloromethyl) ether (Methane, oxybis[chloro-])
Bis(2-ethylhexyl) phthalate (1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester)
Bromoacetone (2-Propanone, 1-bromo-)
Bromomethane (Methyl bromide)
4-Bromophenyl phenyl ether (Benzene, 1-bromo-4-phenoxy-)
Brucine (Strychnidin-10-one, 2,3-dimethoxy-)
2-Butanone peroxide (Methyl ethyl ketone, peroxide)
Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butyl phenylmethyl ester)
2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol, 2,4-dinitro-6-(1-methylpropyl)-)
Cadmium and compounds, N.O.S.*
Calcium chromate (Chromic acid, calcium salt)
Calcium cyanide
Carbamic Acid, ethyl ester
Carbon disulfide (Carbon bisulfide)
Carbon oxyfluoride (Carbonyl fluoride)
Chloral (Acetaldehyde, trichloro-)
Chlorambucil (Butanoic acid, 4-[bis(2-chloroethyl)amino]benzene-)
Chlordane (alpha and gamma isomers) (4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3,4,7,7a-tetrahydro-) (alpha and gamma isomers)
Chlorinated benzenes, N.O.S.*
Chlorinated ethane, N.O.S.*
Chlorinated fluorocarbons, N.O.S.*
Chlorinated naphthalene, N.O.S.*
Chlorinated phenol, N.O.S.*
Chloroacetaldehyde (Acetaldehyde, chloro-)
Chloroalkyl ethers, N.O.S.*
P-Chloroaniline (Benzenamine, 4-chloro-)
Chlorobenzene (Benzene, chloro-)
Chlorobenzilate (Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-,ethyl ester)
2-Chloro-1,3-butadiene
p-Chloro-m-cresol (Phenol, 4-Chloro-3-methyl)
1-Chloro-2,3-epoxypropane (Oxirane, 2-(chloromethyl)-)
2-Chloroethyl vinyl ether (Ethene, (2-chloroethoxy)-)
Chloroform (Methane, trichloro-)
Chloromethane (Methyl chloride)
Chloromethyl methyl ether (Methane, chloromethoxy-)
2-Chloronaphthalene (Naphthalene, beta-chloro-)
2-Chlorophenol (Phenol, o-chloro-)
1-(o-Chlorophenyl)thiourea (Thiourea, (2-chlorophenyl)-)
3-Chloropropene
3-Chloropropionitrile (Propanenitrile, 3-chloro-)
Chromium and compounds, N.O.S.*
Chrysene (1,2-Benzphenanthrene)
Citrus red No. 2 (2-Naphthol, 1-[(2,5-dimethoxyphenyl)azo]-)
Coal tars
Copper cyanide
Creosote (Creosote, wood)
Cresols (Cresylic acid) (Phenol, methyl-)
Crotonaldehyde (2-Butenal)
Cyanides (soluble salts and complexes), N.O.S.*
Cyanogen (Ethanedinitrile)
Cyanogen bromide (Bromine cyanide)
Cyanogen chloride (Chlorine cyanide)
Cycasin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)
2-Cyclohexyl-4,6-dinitrophenol (Phenol, 2-cyclohexyl-4,6-dinitro-)
Cyclophosphamide (2H-1,3,2,-Oxazaphosphorine, [bis(2-chloroethyl)amino]-tetrahydro-, 2-oxide)

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Daunomycin (5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-)
DDD (Dichlorodiphenyldichloroethane) (Ethane, 1,1-dichloro-2,2-bis(p chlorophenyl)-)
DDE (Ethylene, 1,1-dichloro-2,2-bis(4-chlorophenyl)-)
DDT (Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)
Diallate (S-(2,3-dichloroallyl) diisopropylthiocarbamate)
Dibenz[a,h]acridine (1,2,5,6-Dibenzacridine)
Dibenz[a,j]acridine (1,2,7,8-Dibenzacridine)
Dibenz[a,h]anthracene (1,2,5,6-Dibenzanthracene)
7H-Dibenzo[c,g]carbazole (3,4,5,6-Dibenzcarbazole)
Dibenzo[a,e]pyrene (1,2,4,5-Dibenzpyrene)
Dibenzo[a,h]pyrene (1,2,5,6-Dibenzpyrene)
Dibenzo[a,i]pyrene (1,2,7,8-Dibenzpyrene)
1,2-Dibromo-3-chloropropane (Propane, 1,2-dibromo-3-chloro-)
1,2-Dibromoethane (Ethylene dibromide)
Dibromomethane (Methylene bromide)
Di-n-butyl phthalate (1,2-Benzenedicarboxylic acid, dibutyl ester)
o-Dichlorobenzene (Benzene, 1,2-dichloro-)
m-Dichlorobenzene (Benzene, 1,3-dichloro-)
p-Dichlorobenzene (Benzene, 1,4-dichloro-)
Dichlorobenzene, N.O.S.* (Benzene, dichloro-, N.O.S.*)
3,3'-Dichlorobenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-)
1,4-Dichloro-2-butene (2-Butene, 1,4-Butene, 1,4-dichloro-)
Dichlorodifluoromethane (Methane, dichlorodifluoro-)
1,1-Dichloroethane (Ethylidene dichloride)
1,2-Dichloroethane (Ethylene dichloride)
trans-1,2-Dichloroethene (1,2-Dichloroethylene)
Dichloroethylene, N.O.S.* (Ethene, dichloro-, N.O.S.*)
1,1-Dichloroethylene (Ethene, 1,1-dichloro-)
Dichloromethane (Methylene chloride)
2,4-Dichlorophenol (Phenol, 2,4-dichloro-)
2,6-Dichlorophenol (Phenol, 2,6-dichloro)
2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)
Dichlorophenylarsine (Phenyl dichloroarsine)
Dichloropropane, N.O.S.* (Propane, dichloro-, N.O.S.*)
1,2-Dichloropropane (Propylene dichloride)
Dichloropropanol, N.O.S.* (Propanol, dichloro-, N.O.S.*)
Dichloropropene, N.O.S.* (Propene, dichloro-, N.O.S.*)
1,3-Dichloropropene, (1-Propene, 1,3-dichloro-)
Dieldrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa-hydro-endo, exo-1,4:5,8-Dimethanonaphthalene)
1,2:3,4-Diepoxybutane (2,2'-Bioxirane)
Diethylarsine (Arsine, diethyl-)
N,N'-Diethylhydrazine (Hydrazine, 1,2-diethyl)
O,O-Diethyl S-methyl ester of phosphorodithioic acid (Phosphorodithioic acid, O,O-diethyl S-methyl ester
O,O-Diethylphosphoric acid, O-p-nitrophenyl ester (Phosphoric acid, diethyl p-nitrophenyl ester)
Diethyl phthalate (1,2-Benzenedicarboxylic acid, diethyl ester)
O,O-Diethyl O-2-pyraxinyl phosphorothioate (Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester
Diethylstilbesterol (4,4'-Stilbenediol, alpha,alpha-diethyl, bis(dihydrogen phosphate, (E)-)
Dihydrosafrole (Benzene, 1,2-methylenedioxy-4-propyl-)
3,4-Dihydroxy-alpha-(methylamino)methyl benzyl alcohol (1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-)
Diisopropylfluorophosphate (DFP) (Phosphorofluoridic acid, bis(1-methylethyl) ester)
Dimethoate (Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl] ester
3,3'-Dimethoxybenzidine ([1,1'-Biphenyl]-4,4'diamine, 3-3'dimethoxy-)
p-Dimethylaminoazobenzene (Benzenamine, N,N-dimethyl-4-(phenylazo)-)
7,12-Dimethylbenz[a]anthracene (1,2-Benzanthracene, 7,12-dimethyl-)
3,3'Dimethylbenzidine ([1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-)
Dimethylcarbamoyl chloride (Carbamoyl chloride, dimethyl-)
1,1-Dimethylhydrazine (Hydrazine, 1,1-dimethyl-)
1,2-Dimethylhydrazine (Hydrazine, 1,2-dimethyl-)
3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino) carbonyl]oxime (Thiofanox)
alpha,alpha-Dimethylphenethylamine (Ethanamine, 1,1-dimethyl-2-phenyl)
2,4-Dimethylphenol (Phenol, 2,4-dimethyl-)
Dimethyl phthalate (1,2-Benzenedicarboxylic, acid, dimethyl ester)
Dimethyl sulfate (Sulfuric acid, dimethyl ester)
Dinitrobenzene, N.O.S.* (Benzene, dinitro-, N.O.S.*
4,6-Dinitro-o-cresol and salts (Phenol, 2,4-dinitro-6-methyl-, and salts)
2,4-Dinitrophenol (Phenol, 2,4-dinitro-)
2,4-Dinitrotoluene (Benezene, 1-methyl-2,4-dinitro-)
2,6-Dinitrotoluene (Benzene,1-methyl-2,6-dinitro-)
Di-n-octyl phthalate (1,2-Benzenedicarbozylic acid, dioctyl ester)
1,4-Dioxane (1,4-Diethylene oxide)
Diphenylamine (Benzenamine, N-Phenyl-)
1,2-Diphenylhydrazine (Hydrazine, 1,2-diphenyl-)
Di-n-propylmitrosamine (N-Nitroso-di-n-propylamine)
Disulfoton (O,O-diethyl S-[2-(ethylthio)ethyl] phosphorodithioate)
2,4-Dithiobiuret (Thioimidodicarbonic diaminde)
Endosulfan (5-Norbornene, 2,3-dimethanol, 1,4,5,6,7,7-hexachloro-, cyclic sulfite)
Endrin and metabolites (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)

Ethyl carbamate (Urethan) (Carbamic acid, ethyl ester)
Ethyl cyanide (propanenitrile)
Ethylenebisdithiocarbamic acid, salts and esters (1,2-Ethanediylbiscarbamodithioic acid, salts and esters.
Ethylene glycol monoethyl ether (2-Ethoxyethanol)
Ethyleneimine (Aziridine)
Ethylene oxide (Oxirane)
Ethylenethiourea (2-Imidazolidinethione)
Ethylmethacrylate (2-Propenoic acid, 2-methyl-, ethyl ester)
Ethyl methanesulfonate (Methanesulfonic acid, ethyl ester)
Fluoranthene (Benzo[j,k]fluorene)
Fluorine
2-Fluoroacetamide (Acetamide, 2-fluoro-)
Fluoroacetic acid, sodium salt (Acetic acid, fluoro-, sodium salt)
Formaldehyde (Methylene, oxide)
Formic acid (Methanoic acid)
Glycidylaldehyde (1-Propanol-2,3-epoxy)
Halomethane, N.O.S.*
Heptachlor (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-)
Heptachlor epoxide (alpha, beta, and gamma isomers) (4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-2,3-epoxy-3a,4,7,7-tetrahydro-, alpha, beta and gamma isomers)
Heptachlorodibenzofurans
Heptachlorodibenzo-p-dioxins
Hexachlorobenzene (Benzene, hexachloro-)
Hexachlorobutadiene (1,3-Butadiene, hexachloro-)
Hexachlorocyclohexane (all isomers) (Lindane and isomers)
Hexachlorocylopentadiene (1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-)
Hexachlorodibenzo-p-dioxins
Hexachlorodibenzofurans
Hexachloroethane (Ethane, hexachloro-)
1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,endo-dimethanonphthalene (Hexachlorohexahydro-endo,endo-dimethanonaphthalene)
Hexachlorophene (2,2'-Methylenebis(3,4,6-trichlorophenol))
Hexachloropropene (Propene, hexachloro-)
Hexaethyl tetraphosphate (Tetraphosphoric acid, hexaethyl ester)
Hydrazine (Diamine)
Hydrocyanic acid (Hydrogen cyanide)
Hydrofluoric acid (Hydrogen fluoride)
Hydrogen sulfide (Sulfur hydride)
Hydroxydimethylarsine oxide (Cacodylic acid)
Indeno(1,2,3-cd)pyrene (1,10-(1,2-phenylene)pyrene)
Iodomethane (Methyl iodide)
~~((Iron Dextran (Ferric dextran)))~~
Isocyanic acid, methyl ester (Methyl isocyanate)
Isobutyl alcohol (1-Propanol, 2-methyl-)
Isosafrole (Benzene, 1,2-methylenedioxy-4-allyl-)
Kepone (Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta[cd]pentalene-2-one)
Lasiocarpine (2-Butanoic acid, 2-methyl-,7-[(2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester)
Lead and compounds, N.O.S.*
Lead acetate (Acetic acid, lead salt)
Lead phosphate (Phosphoric acid, lead salt)
Lead subacetate (Lead, bis(acetato-O)tetrahydroxytri-)
Maleic anhydride (2,5-Furandione)
Maleic hydrazide (1,2-Dihydro-3,6-pyridazinedione)
Malononitrile (Propanedinitrile)
Melphalan (Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-,L-)
Mercury Fulminate (Fulminic acid, mercury salt)
Mercury and compounds, N.O.S.*
Methacrylonitrile (2-Propenenitrile, 2-methyl-)
Methanethiol (Thiomethanol)
Methapyrilene (Pyridine, 2-[(2-dimethylamino)ethyl]-2-thenylamino-)
Metholonyl (Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-,methyl ester
Methoxychior (Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)
2-Methylaziridine (1,2-Propylenimine)
3-Methylcholanthrene (Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-)
Methyl chlorocarbonate (Carbonochloridic acid, methyl ester)
4,4'-Methylenebis(2-chloroaniline) (Benzenamine, 4,4'-methylenebis-(2-chloro-)
Methyl ethyl ketone (MEK) (2-Butanone)
Methyl hydrazine (Hydrazine, methyl-)
2-Methyllactonitrile (Propanenitrile, 2-hydroxy-2-methyl-)
Methyl methacrylate (2-Propenoic acid, 2-methyl-, methyl ester)
Methyl methanesulfonate (Methanesulfonic acid, methyl ester)
2-Methyl-2-(methylthio)propionaldehyde-o-(methylcarbonyl) oxime
N-Methyl-N'-nitro-N-nitrosoguanidine (Guanidine, N-nitros-N-methyl-N'nitro-)
Methyl parathion (O,O-dimethyl O-(4-nitrophenyl) phosphorothioate)
Methylthiouracil (4-1H-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-)
Mustard gas (Sulfide, bis(2-chloroethyl)-)
Naphthalene
1,4-Naphthoquinone (1,4-Naphthalenedione)
1-Naphthylamine (alpha-Naphthylamine)
2-Naphthylamine (beta-Naphthylamine)
1-Naphthyl-2-thiourea (Thiourea, 1-naphthalenyl-)
Nickel and compounds, N.O.S.*
Nickel carbonyl (Nickel tetracarbonyl)
Nickel cyanide (nickel (II) cyanide)
Nicotine and salts, Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts)
Nitric oxide (Nitrogen (II) oxide)
p-Nitroaniline (Benzenamine, 4-nitro-)
Nitrobenzine (Benzene, nitro-) Nitrobenzene
Nitrogen dioxide (Nitrogen (IV) oxide)

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Nitrogen mustard and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-
N-methyl-, and hydrochloride salt)
Nitrogen mustard N-Oxide and hydrochloride salt (Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, N-oxide, and hydro-chloride salt)
Nitroglycerine (1,2,3-Propanetriol, trinitrate)
4-Nitrophenol (Phenol, 4-nitro-)
2-Nitropropane (Propane 2-nitro)
4-Nitroquinoline-1-oxide (Quinoline, 4-nitro-1-oxide-)
Nitrosamine, N.O.S.*
N-Nitrosodi-n-butylamine (1-Butanamine, N-butyl-N-nitroso-)
N-Nitrosodiethanolamine (Ethanol, 2,2'-(nitrosoimino)bis-)
N-Nitrosodiethylamine (Ethanamine, N-Ethyl-N-nitroso-)
N-Nitrosodimethylamine (Dimethylnitrosamine)
N-Nitroso-N-ethylurea (Carbamide, N-ethyl-N-nitroso-)
N-Nitrosomethylethylamine (Ethanamine, N-methyl-N-nitroso-)
N-Nitroso-N-methylurea (Carbamide, N-methyl-N-nitroso-)
N-Nitroso-N-methylurethane (Carbamic acid, methylnitroso-, ethyl ester)
N-Nitrosomethylvinylamine (Ethenamine, N-methyl-N-nitroso-)
N-Nitrosomorpholine (Morpholine, N-nitroso-)
N-Nitrosonornicotine (Nornicotine, N-nitroso-)
N-Nitrosopiperidine (Pyridine, hexahydro-, N-nitroso-)
N-Nitrosopyrrolidine (pyrrole, tetrahydro-, N-nitroso-)
N-Nitrososacrosine (Sarcosine, N-nitroso-)
5-Nitro-o-toluidine (Benzenamine, 2-methyl-5-nitro-)
Octamethylpyrophosphoramide (Diphosphoraminde, octamethyl-)
Osmium tetroxide (Osmium (VIII) oxide)
7-Ocabicyclo[2.2.1]heptane-2,3-dicarbonxylic acid (Endothal)
Paraldehyde (1,3,5-Trioxane, 2,4,6-trinethyl-)
Parathion (Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester
Pentachlorobenzene (Benzene, pentachloro-)
Pentachlorodibenzo-p-dioxins
Pentachlorodibenzofurans
Pentachloroethane (Ethane, pentachloro-)
Pentachloronitrobenzene (PCNB) (Benzene, pentachloronitro-)
Pentachlorophenol (Phenol, pentachloro-)
Perchloromethyl mercaptan (Methanesulferryl chloride, trichloro-)
Phenacetin (Acetamide, N-(4-ethoxyphenyl)-)
Phenol (Benzene, hydroxy-)
Phenylenediamine (Benzenediamine)
Phenylmercury acetate (Mercury, acetatophenyl-)
N-Phenylthiourea (Thiourea, phenyl-)
Phosgene (Carbonyl chloride)
Phosphine (Hydrogen phosphide)
Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester (Phorate)
Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)sulfonyl)phenyl] ester (Famphur)
Phthalic acid esters, N.O.S.* (Benzene, 1,2-dicarboxylic acid, esters, N.O.S.*
Phthalic anhydride (1,2-Benzenedicarboxylic acid anhydride)
2-Picoline (Pyridine, 2-methyl-)
Polychlorinated biphenyl, N.O.S.*
Potassium cyanide
Potassium silver cyanide (Argentate(1-), dicyano-, potassium)
Pronamide (3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide)
1,3-Propanesultone (1,2-Oxathiolane, 2,2-dioxide)
Propionic acid, 2-(2,4,5-trichlorophenoxy), salts and esters (2,4,5-TP,Silvex, salts and esters)
n-Propylamine (1-Propane)
Propylthiouracil (2,3 dihydro-6-propyl-2 thioxo-4(1H)-pyrimidinone)
2-Propyn-1-ol (Propargyl alcohol)
Pyridine
Reserpine (Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenxoyl)oxy]-, methyl ester)
Resorcinol (1,3-Benzenediol)
Saccharin and salts (1,2-Benzoisothiazolin-3-one, 1,1-dioxide, and salts)
Safrol (Benzene, 1,2-methylenedioxy-4-allyl-)
Selenious acid (Selenium dioxide)
Selenium and compounds, N.O.S.*
Selenium sulfide (Sulfur selenide)
Selenourea (Carbamimidoselenoic acid)
Silver and compounds, N.O.S.*
Silver cyanide
Sodium cyanide
Streptozotocin (D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-)
((~~Strontium sulfide~~))
Strychnine and salts (Strychnidin-10-one, and salts)
1,2,4,5-Tetrachlorobenzene (Benzene, 1,2,4,5-tetrachloro-)
Tetrachlorodibenzo-p-dioxins
Tetrachlorodibenzofurans
2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) Dibenzo-p-dioxin, 2,3,7,8-tetrachloro-)
Tetrachloroethane, N.O.S.* (Ethane, tetrachloro-, N.O.S.*)
1,1,1,2-Tetrachlorethane (Ethane, 1,1,1,2-tetrachloro-)
1,1,2,2-Tetrachlorethane (Ethane, 1,1,2,2-tetrachloro-)
Tetrachlorethylene (Ethene, 1,1,2,2-tetrachloro-)[1]
Tetrachloromethane (Carbon tetrachloride)
2,3,4,6-Tetrachlorophenol (Phenol,2,3,4,6-tetrachloro-)
Tetraethyldithiopyrophosphate (Dithiopyrophosphoric acid, tetraethyl-ester)
Tetraethyl lead (Plumbane, tetraethyl-)
Tetraethylpyrophosphate (Pyrophosphoric acid, tetraethyl ester)
Tetranitromethane (Methane, tetranitro-)
Thallium and compounds, N.O.S.*
Thallic oxide (Thallium (III) oxide)
Thallium (1) acetate (Acetic acid, thallium (I) salt)
Thallium (I) carbonate (Carbonic acid, dithallium (I) salt)
Thallium (I) chloride

Thallium (I) nitrate (Nitric acid, thallium (I) salt)
Thallium selenite
Thallium (I) sulfate (Sulfuric acid, thallium (I) salt)
Thioacetamide (Ethanethioamide)
Thiosemicarbazide (Hydrazinecarbothioamide)
Thiourea (Carbamide thio-)
Thiuram (Bis(dimethylthioucarbamoyl) disulfide)
Toluene (Benzene, methyl-)
Toluenediamine, N.O.S. (Toluene, 2,5-diamine-)
2,4-Toluenediamine
2,6-Toluenediamine
3,4-Toluenediamine
o-Toluidine hydrochloride (Benzenamine, 2-methyl-, hydrochloride)
Tolylene diisocyanate (Benzene, 2,4- and 2,6-diisocyanato-methyl-)
Toxaphene (Camphene, octachloro-)
Tribromomethane (Bromoform)
1,2,4-Trichlorobenzene (Benzene, 1,2,4-trichloro-)
1,1,1-Trichloroethane (Methyl chloroform)
1,1,2-Trichloroethane (Ethane, 1,1,2-trichloro-)
Trichloroethene (Trichloroethylene)
Trichloromonofluoromethane (Methane, trichlorofluoro-)
2,4,5-Trichlorophenol (Phenol, 2,4,5-trichloro-)
2,4,6-Trichlorophenol (Phenol, 2,4,6-trichloro-)
2,4,5-Trichlorophenoxyacetic acid (2,4,5-T, salts and esters) (Acetic acid, 2,4,5-trichlorophenoxy-, salts and esters)
2,4,5-Trichlorophenoxypropionic acid (Porpionoic acid, 2-(2,4,5-trichlorophenoxyl), salts and esters (2,4,5-TP, Silvex, salts and esters))
Trichloropropane, N.O.S.* (Propane, trichloro-, N.O.S.*
1,2,3-Trichloropropane (Propane, 1,2,3-trichloro-)
O,O,O-Triethyl phosphorothioate (Phosphorothioic acid, O,O,O-triethyl ester)
sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)
Tris(1-aziridinyl) phosphine sulfide (Phosphine sulfide, tris(1-aziridinyl-)
Tris(2,3-dibromopropyl) phosphate (1-Propanol, 2,3-dibromo-, phosphate)
Trypan blue (2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo)]bis(5-amino-4-hydroxy-, tetrasodium salt)
Undecamethylenediamine, N,N'-bis-(2-chloro-benzyl)-,dihydrochloride N,N'-Undecamethyl-enebis(2-chlorobenzylamine, dihydrochloride)
Uracil mustard (Uracil 5-[bis(2-chlorethyl)amino]-)
Vanadic acid, ammonium salt (ammonium vanadate)
Vanadium pentoxide (Vanadium (V) oxide)
Vinyl chloride (Ethane, chloro-)
Zinc cyanide
Zinc phosphide

* The abbreviation N.O.S. signifies those members of the general class "not otherwise specified" by name in this listing.

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.

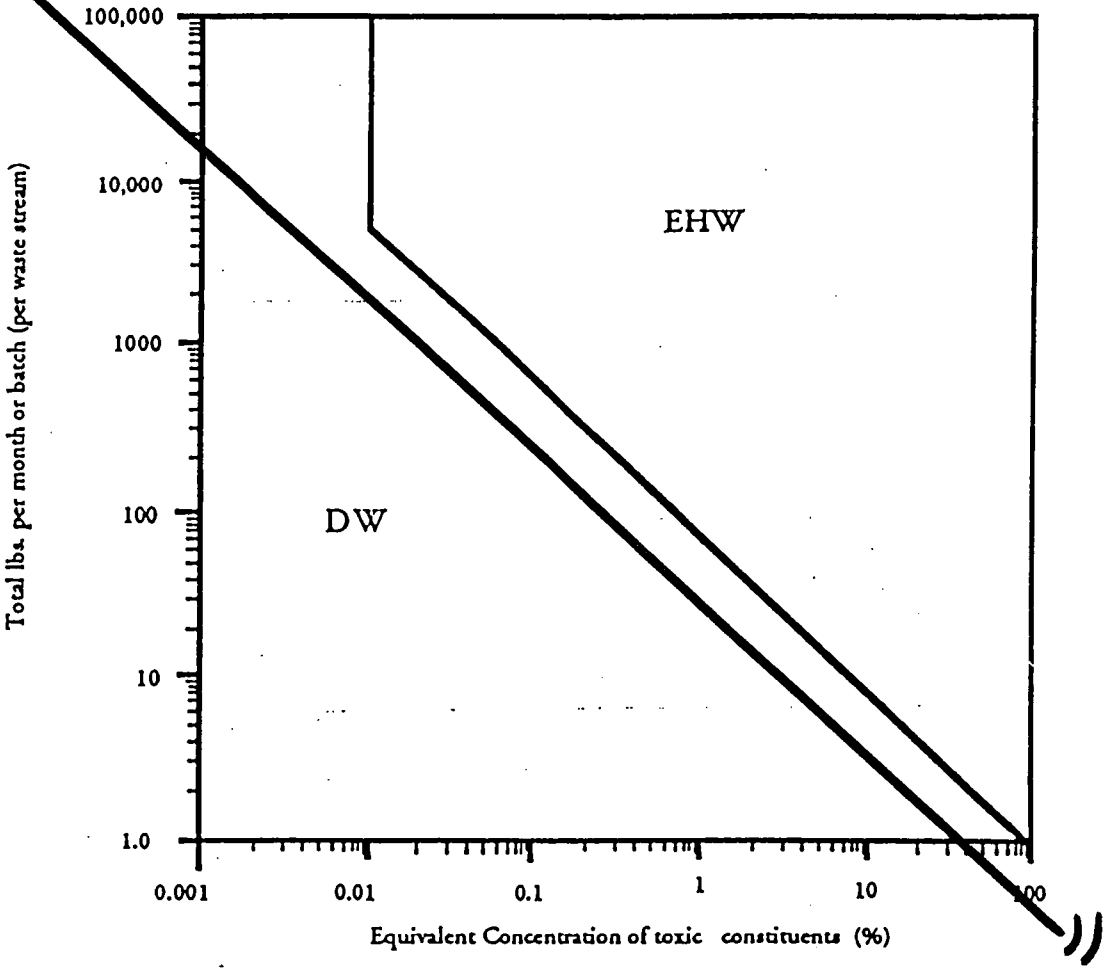
PROPOSED

AMENDATORY SECTION (Amending Order 92-33, filed 12/8/93, effective 1/8/94)

WAC 173-303-9906 ((~~Toxic dangerous waste mixtures graph.~~)) **Special waste bill of lading.**

((

WAC 173-303-9906 : Toxic Dangerous Waste Criteria Graph



))

Note: The above graph should be used to determine whether a toxic waste (WAC 173-303-100(5)) is a dangerous waste (DW) or an extremely hazardous waste (EHW).

SPECIAL WASTE
BILL OF LADING
EXAMPLE

1) Receiving Facility Name: _____ phone: _____
Address: _____ fax: _____
2) Customer Name: _____ phone: _____
Address: _____ fax: _____
3) Property Owner Name (where waste originated): _____ phone: _____
Address: _____ fax: _____
4) Hauler Name: _____ phone: _____
Address: _____ fax: _____
5) Consultant Name: _____ phone: _____
Address: _____ fax: _____
6) Amount of waste: _____
7) Original Location of Special Waste: _____

8) Activity Which Generated Waste: _____

9) Description of Waste. Include any Applicable Dangerous Waste Code: _____

_____

10) Does Waste Have Potential to Create Fugitive Dust? Yes ____ No ____
If Yes, What is your Plan to Mitigate Dust?

_____

_____

11) Amount of wastes in pounds or tons: _____

SPECIAL WASTE WASTE ANALYSIS

Customer Must Initial the Appropriate Item.

____1. Wastes were designated through testing

____2. Wastes were designated by other means

Customer Certifies That:

1. The Waste sampled and intended for disposal under this Certification is special waste as defined in WAC 173-303-040.

2. The Waste has no free liquids per WAC 173-303-110 (3)(c)(i).

Signature _____ Date _____

PROPOSED

WSR 95-11-116
PROPOSED RULES
OFFICE OF FINANCIAL MANAGEMENT
[Filed May 24, 1995, 8:58 a.m.]

Original Notice.

Title of Rule: Amends existing WAC 82-50-021 Official lagged, semi-monthly paydates established.

Purpose: Establishes state paydates for calendar year 1996.

Statutory Authority for Adoption: RCW 42.16.010(1) and 42.16.017.

Statute Being Implemented: RCW 42.16.010(1) and 42.16.017.

Summary: Eliminates historical paydates for calendar year 1994; retains existing paydates for calendar year 1995; and adds new paydates for calendar year 1996.

Reasons Supporting Proposal: To ensure compliance with legislative directive to annually update and publish the official lagged, semi-monthly paydates for the current and ensuing calendar years through the administrative hearing process.

Name of Agency Personnel Responsible for Drafting and Enforcement: Pete Anthony, 406 Legion Way S.E., Olympia, 664-3404; and Implementation: Mike Cheney, 406 Legion Way S.E., Olympia, 664-3403.

Name of Proponent: Office of Financial Management, governmental.

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

Explanation of Rule, its Purpose, and Anticipated Effects: Make annual adjustments to state paydates, eliminating calendar year 1994 paydates, retaining calendar year 1995 paydates, and adding calendar year 1996 paydates.

Proposal Changes the Following Existing Rules: Eliminates calendar year 1994 paydates from WAC 82-50-021 and adds calendar year 1996 paydates to WAC 82-50-021.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Since the sole purpose of this rule is to set paydates for state agencies, no compliance costs or adverse economic impact is anticipated for small businesses.

Hearing Location: First Floor Conference Room, 406 Legion Way S.E., Olympia, WA 98504, on June 27, 1995, at 3:00 p.m.

Assistance for Persons with Disabilities: Contact Pete Anthony by June 16, 1995, TDD (360) 664-3649, or (360) 664-3404.

Submit Written Comments to: Pete Anthony, P.O. Box 43127, Olympia, WA 98504-3127, FAX (360) 664-3423, by June 26, 1995.

Date of Intended Adoption: June 30, 1995.

May 24, 1995
G. Dewey Harris III
Assistant Director

AMENDATORY SECTION (Amending WSR 94-13-097, filed 6/15/94, effective 7/16/94)

WAC 82-50-021 Official lagged, semimonthly pay dates established. Unless exempted otherwise under the provisions of WAC 82-50-031, the salaries of all state officers and employees are paid on a lagged, semimonthly basis for the official twice-a-month pay periods established in RCW 42.16.010(1). The following are the official lagged, semimonthly pay dates for calendar years ((~~1994~~)) 1995 and ((~~1995~~)) 1996:

((~~CALENDAR YEAR 1994~~	~~CALENDAR YEAR 1995~~
~~Monday, January 10, 1994~~	~~Tuesday, January 10, 1995~~
~~Tuesday, January 25, 1994~~	~~Wednesday, January 25, 1995~~
~~Thursday, February 10, 1994~~	~~Friday, February 10, 1995~~
~~Friday, February 25, 1994~~	~~Friday, February 24, 1995~~
~~Thursday, March 10, 1994~~	~~Friday, March 10, 1995~~
~~Friday, March 25, 1994~~	~~Friday, March 24, 1995~~
~~Monday, April 11, 1994~~	~~Monday, April 10, 1995~~
~~Monday, April 25, 1994~~	~~Tuesday, April 25, 1995~~

PROPOSED

~~Tuesday, May 10, 1994~~	~~Wednesday, May 10, 1995~~
~~Wednesday, May 25, 1994~~	~~Thursday, May 25, 1995~~
~~Friday, June 10, 1994~~	~~Friday, June 9, 1995~~
~~Friday, June 24, 1994~~	~~Monday, June 26, 1995~~
~~Monday, July 11, 1994~~	~~Monday, July 10, 1995~~
~~Monday, July 25, 1994~~	~~Tuesday, July 25, 1995~~
~~Wednesday, August 10, 1994~~	~~Thursday, August 10, 1995~~
~~Thursday, August 25, 1994~~	~~Friday, August 25, 1995~~
~~Friday, September 9, 1994~~	~~Monday, September 11, 1995~~
~~Monday, September 26, 1994~~	~~Monday, September 25, 1995~~
~~Friday, October 7, 1994~~	~~Tuesday, October 10, 1995~~
~~Tuesday, October 25, 1994~~	~~Wednesday, October 25, 1995~~
~~Thursday, November 10, 1994~~	~~Thursday, November 9, 1995~~
~~Wednesday, November 23, 1994~~	~~Wednesday, November 22, 1995~~
~~Friday, December 9, 1994~~	~~Monday, December 11, 1995~~
~~Friday, December 23, 1994~~	~~Friday, December 22, 1995~~))

CALENDAR YEAR 1995	CALENDAR YEAR 1996
Tuesday, January 10, 1995	Wednesday, January 10, 1996
Wednesday, January 25, 1995	Thursday, January 25, 1996
Friday, February 10, 1995	Friday, February 9, 1996
Friday, February 24, 1995	Monday, February 26, 1996
Friday, March 10, 1995	Monday, March 11, 1996
Friday, March 24, 1995	Monday, March 25, 1996
Monday, April 10, 1995	Wednesday, April 10, 1996
Tuesday, April 25, 1995	Thursday, April 25, 1996
Wednesday, May 10, 1995	Friday, May 10, 1996
Thursday, May 25, 1995	Friday, May 24, 1996
Friday, June 9, 1995	Monday, June 10, 1996
Monday, June 26, 1995	Tuesday, June 25, 1996
Monday, July 10, 1995	Wednesday, July 10, 1996
Tuesday, July 25, 1995	Thursday, July 25, 1996
Thursday, August 10, 1995	Friday, August 9, 1996
Friday, August 25, 1995	Monday, August 26, 1996
Monday, September 11, 1995	Tuesday, September 10, 1996
Monday, September 25, 1995	Wednesday, September 25, 1996
Tuesday, October 10, 1995	Thursday, October 10, 1996
Wednesday, October 25, 1995	Friday, October 25, 1996
Thursday, November 9, 1995	Friday, November 8, 1996
Wednesday, November 22, 1995	Monday, November 25, 1996
Monday, December 11, 1995	Tuesday, December 10, 1996
Friday, December 22, 1995	Tuesday, December 24, 1996

WSR 95-11-118
PROPOSED RULES
DEPARTMENT OF AGRICULTURE
[Filed May 24, 1995, 9:48 a.m.]

Original Notice.

Title of Rule: Rough bluegrass quarantine.

Purpose: To establish a quarantine for rough bluegrass.

Statutory Authority for Adoption: Chapter 15.49 RCW, Seeds.

Statute Being Implemented: Chapter 15.49 RCW, Seeds.

Summary: The proposal establishes a quarantine for rough bluegrass.

Reasons Supporting Proposal: The quarantine will prevent the introduction of rough bluegrass into Washington state.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Max Long, 2015 South First Street, Yakima, WA 98903, (509) 575-2750.

Name of Proponent: Washington Seed Council, Washington Seed Industry, private and public.

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

Explanation of Rule, its Purpose, and Anticipated Effects: The proposal establishes quarantine for rough bluegrass to prevent introduction into major Kentucky bluegrass seed production areas, to control seed stocks to be planted for further seed increase, and to assure for Kentucky bluegrass seed growers a source of seed stock for planting purposes which is tested for the presence of rough bluegrass.

Proposal Changes the Following Existing Rules: The proposal establishes a quarantine for rough bluegrass.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. This proposal will not have a negative impact on the Washington grass seed industry, but will be positive as the current Kentucky bluegrass seed (KBG) industry would be afforded protection from the introduction of rough bluegrass. This species is a contaminate in sod quality KBG seed, the highest quality seed available. KBG contamination with rough bluegrass drastically lowers the quality and price of KBG seed.

Hearing Location: AG Service center Conference Room, 2015 South First Street, Yakima, WA 98903, on June 27, 1995, at 1:15 p.m.

Assistance for Persons with Disabilities: Contact K. Diane Dolstad by June 27, 1995, TDD (360) 902-1996.

Submit Written Comments to: FAX (509) 454-4395, by June 27, 1995.

Date of Intended Adoption: July 3, 1995.

May 22, 1995
K. Diane Dolstad
Assistant Director

NEW SECTION

WAC 16-495-200 Rough bluegrass quarantine—Establishing quarantine. The seeds of the crop known as rough bluegrass, Poa trivialis and its known strains, hereinafter referred to as rough bluegrass, are objectionable in Kentucky bluegrass grass seed; therefore, a rough bluegrass quarantine is established to prevent the introduction of rough bluegrass into major Kentucky bluegrass grass seed production areas, to control seed stocks to be planted for further seed increase, and to assure Kentucky bluegrass seed growers of a source of seed stock for planting purposes which is tested for presence of rough bluegrass.

NEW SECTION

WAC 16-495-205 Rough bluegrass quarantine—Definitions. (1) "Person" means a natural person, individual, firm, partnership, corporation, company, society, and association, and every officer, agent, or employee thereof. This term shall import either the singular or the plural as the case may be.

(2) "Department" means the Washington state department of agriculture.

(3) "Director" means the director of the department of agriculture or his/her duly authorized representative.

(4) "Rough bluegrass" means *Poa trivialis* and all related subspecies.

(5) "Nursery" means an area of two acres or less in which Kentucky bluegrass for seed production is seeded in rows with twenty-four-inch minimum spacings to facilitate roguing.

(6) "Seed stock" means those seeds of Kentucky bluegrass which are to be planted for seed increase or with intent of seed increase.

(7) "Official seed laboratory" means a seed testing laboratory approved by the director, such as, but not limited to, Washington State Seed Laboratory, 2015 South First Street, Yakima, Washington; and Oregon State Seed Laboratory, Oregon State University, Corvallis, Oregon.

(8) "Representative sample" means a sample drawn in accordance with sampling procedures adopted by the director.

(9) "Rough bluegrass analysis certificate" means a test report from an official seed laboratory showing freedom from rough bluegrass based on a 25 gram sample.

NEW SECTION

WAC 16-495-210 Rough bluegrass quarantine—Regulated area. Areas regulated under the rough bluegrass quarantine include all counties in the state of Washington lying east of the Cascade Crest.

(1) This quarantine shall not apply: To experiments or trial grounds of the United States Department of Agriculture; to experiments or trial grounds of Washington State University experiment station; or to trial grounds of any person, firm, or corporation: *Provided,* That said trial ground plantings are approved by the director and under supervision of technically trained personnel familiar with rough bluegrass control.

(2) This quarantine shall not apply to seed production fields of rough bluegrass grown in Benton, Klickitat, or Yakima counties.

NEW SECTION

WAC 16-495-215 Rough bluegrass quarantine—Quarantine area. Areas quarantined under the rough bluegrass quarantine include all counties in the state of Washington lying west of the Cascade Crest and all areas outside of the state of Washington.

NEW SECTION

WAC 16-495-220 Rough bluegrass quarantine—Regulated articles. Articles regulated under the requirements of the rough bluegrass quarantine include:

(1) Seed stocks of all varieties of Kentucky bluegrass.

(2) Seed production fields of rough bluegrass.

(3) This quarantine shall not apply to seed sown for forage or turf.

NEW SECTION

WAC 16-495-225 Rough bluegrass quarantine—Conditions governing movement of regulated articles. No seed stock shall be shipped, transported, moved in, or into the rough bluegrass quarantine regulated area unless such seed stock is accompanied by a test report from an official laboratory showing said seed stock is free of rough bluegrass on the basis of a minimum 25 gram analysis: *Provided,* That seed stock found to contain rough bluegrass may be planted in the regulated area if planted in a nursery under an inspection program as established by the Washington state department of agriculture.

NEW SECTION

WAC 16-495-230 Violations and penalty. Any person who violates the terms of this quarantine may be subject to the criminal and civil penalties provided in chapters 15.49 and/or 17.24 RCW.

NEW SECTION

WAC 16-495-235 Rough bluegrass quarantine—Procedure for clearing seed stocks. Each person moving, shipping or transporting seed stock in or into the rough bluegrass quarantine regulated area shall:

(1) Submit an official laboratory analysis of a representative sample showing freedom from rough bluegrass; or

(2) Have a representative sample submitted for testing.

NEW SECTION

WAC 16-495-240 Rough bluegrass quarantine—Seed stock containing rough bluegrass. Each lot of seed stock found to contain rough bluegrass shall be placed under "stop sale" to be released only for shipment out of the quarantine area or for planting in nurseries of two acres or less under supervision of, and approved by, an agent of the department of agriculture. The nursery shall be seeded in rows. It shall be the duty of the person receiving such seed to rogue this increase area or chemically treat to eradicate the rough bluegrass thus assuring production of seed that is free of rough bluegrass. Seed increase areas shall be inspected by the department at least three times during the seedling year. Any areas not passing inspection shall not be harvested, but instead shall be destroyed by the person who planted the increase area upon order of the director of the Washington state department of agriculture or his/her agent. If not destroyed as directed, the department of agriculture shall have the plot destroyed and the grower shall be liable for all expenses.

NEW SECTION

WAC 16-495-245 Rough bluegrass quarantine—Application for nursery inspection. A person shall make application for nursery inspection for rough bluegrass to the department of agriculture not later than fourteen days prior to planting.

NEW SECTION

WAC 16-495-250 Rough bluegrass quarantine—Fees. (1) Fees for sampling and analysis for the presence of rough bluegrass shall be that fee established by the director in WAC 16-304-039 through 16-304-050.

(2) Inspection fee for nursery plantings shall be fifty dollars per acre or portion thereof.

NEW SECTION

WAC 16-495-255 Rough bluegrass quarantine—Violation procedures. (1) A person who is alleged to have

PROPOSED

violated the rough bluegrass quarantine shall meet with a representative of the department to determine:

(a) If a violation actually occurred;

(b) How it did occur, and what corrective measures can be taken to avoid recurrence;

(c) How much acreage is involved and location of all plantings.

(2) Corrective procedures shall be agreed upon, such as roguing, chemical treatment, etc., and the time frame for such work, or agreement for voluntary destruction of all acreage involved.

(3) Treated and rogued acreage shall be inspected by the department of agriculture three times during the seedling stages to assure freedom from rough bluegrass. The violator will be assessed an hourly inspection fee and a mileage fee where additional mileage is involved.

(4) Failure to mutually agree, or failure to comply with these procedures, or if it is determined the violation was willful, will be referred to the attorney general for criminal and/or civil penalty action.

WSR 95-11-125
PROPOSED RULES
HIGHER EDUCATION COORDINATING BOARD
[Filed May 24, 1995, 10:19 a.m.]

Original Notice.

Title of Rule: Chapter 250-28 WAC, rules governing administration of Western Interstate Commission for Higher Education (WICHE) in Washington.

Purpose: To convert WICHE tuition assistance in professional student exchange program to a conditional loan based on a return of service in Washington state.

Other Identifying Information: Compliance with SB 5287.

Statutory Authority for Adoption: SB 5287.

Statute Being Implemented: Chapter 28B.80 RCW.

Summary: Designates terms of repayment or service in a shortage area in Washington state for recipients of WICHE support in optometry and osteopathic medicine.

Reasons Supporting Proposal: Implementation of SB 5287.

Name of Agency Personnel Responsible for Drafting and Implementation: Barbara Theiss and John Klacik, 917 Lakeridge Way, Olympia, WA 98504-3430, (360) 753-7845; and Enforcement: Shirley Ort, 917 Lakeridge Way, Olympia, WA 98504, (360) 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: Provides repayment and service terms for recipients of WICHE support in optometry and osteopathic medicine. Provides that recipients will serve a minimum of three years in a shortage area in their field or repay the WICHE support funds in their entirety, at eight percent interest, over a period of five years. The statutory and rule changes are intended to help address the shortage of primary health care providers in the state.

Proposal Changes the Following Existing Rules: Proposed changes convert current WICHE grant to a conditional loan requiring service or repayment. Requires recipients to return to Washington.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Not applicable.

Hearing Location: Higher Education Coordinating Board, 917 Lakeridge Way, P.O. Box 43430, Olympia, WA 98504-3430, on June 27, 1995, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Karen Moton-Tate by June 26, 1995, TDD (360) 753-7809, or (360) 753-7802.

Submit Written Comments to: Elson S. Floyd, Executive Director, FAX (360) 753-7808, by June 27, 1995.

Date of Intended Adoption: July 13, 1995.

May 22, 1995
Elson S. Floyd
Executive Director

WAC 250-28

NEW SECTION

WAC 250-28-090 Repayment provisions. (1) WICHE award recipients selected after January 1, 1995, shall receive tuition assistance in the form of loans. Recipients shall repay those loans under the following conditions, unless the loan is forgiven under (2) of this section.

(a) The recipient shall begin repaying the loan no later than nine months from the date he/she completes or discontinues the course of study; and

(b) The recipient shall make quarterly loan repayments to the board in an amount sufficient to repay the entire debt, including interest at an annual rate to be determined by the board, no later than five years from the due date of the first payment, unless the board grants a deferral in subsection (3) of this section.

(2) Service Obligations.

(a) Loans to WICHE award recipients selected after January 1, 1995, may be completely forgiven in exchange for the recipient's service, if the recipient meets all of the following criteria: (1) after graduating, the recipient serves in a board-designated shortage area in Washington for the greater of (a) one full year of service for each award year or (b) three full years; and (2) the recipient provides documentation to the board of the service provided.

(b) A recipient who elects to assume the service obligations under (a)(1) and (2) of this subsection, but fails to complete those obligations, must repay the full amount of the loan unless the board waives the recipient's obligations under subsection (5) of this section. The recipient must notify the board when he/she terminates service in the shortage area. The obligation to repay the loan as provided in (1)(b) begins on the day following the last quarter of the recipient's service.

(3) The board may grant deferral of loan repayment obligations under this section under such terms and conditions as it deems appropriate.

(4) The board is responsible for collecting loan repayments and shall exercise due diligence in such collections to ensure that maximum repayments are made. The board intends to exercise its collection responsibility diligently and

to use all available legal avenues to meet its collection responsibility.

(5) The board may waive, in full or in part, a recipient's obligation for service or loan repayment when a recipient can no longer function in his or her professional duties due to a permanent disability; or death.

(6) The board shall deposit all receipts from loan repayment received under this section in the state treasurer's WICHE trust fund established by the Legislature in 1995, in § 1(5) of SB 5287. Those funds shall be used to cover costs of granting the conditional awards, maintaining necessary records and making collections. The board shall maintain accurate records of these costs, and all receipts beyond those necessary to pay such costs shall be used to grant CONDITIONAL AWARDS to eligible students.

[NEW SECTION]

WAC 250-28-100 Appeals. Recipients of WICHE support may request in writing a review of any adverse decision affecting them by requesting such review within twenty days of notification of adverse decision, addressed to the executive director of the higher education coordinating board. The review shall be handled by brief adjudication hearing procedures as outlined in the Administrative Procedures Act chapter 34.05 RCW.

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.

AMENDATORY SECTION [(Amending WSR 95-11-059, filed 5/12/95)]

WAC 250-28-060 Program definitions. (1) "Budgetary cost" shall consist of that amount required to support an individual as a student, taking into consideration cost factors for maintaining the student's dependents. Budgets will reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses and any other factors deemed necessary for consideration.

(2) "Certification" is the designation used by the state to declare that a student is eligible for support if that student is admitted to a participating institution.

(3) The term "financial need" shall be the difference between the appropriate budgetary cost and the student's total family contribution, as determined according to the federal methodology system of need analysis.

(4) A "participating institution" shall be one recognized by the Western Interstate Commission for Higher Education to participate in this program.

(5) The term "Washington resident" shall mean an individual who has satisfied the requirements of domicile in the state of Washington in accordance with RCW 28B.15.011 through 28B.15.014.

(6) The definition of "satisfactory progress" toward degree completion shall be in accordance with published definitions utilized by each participating institution.

(7) "Total family contribution" for a dependent student shall mean the sum of the assumed parent and student contribution. For a self-supporting student, "total family contribution" shall mean the sum of the student's resources.

(8) The definition of "dependent student" and "self-supporting student" shall be in accordance with definitions utilized by the United States Office of Education for its institutionally-based financial aid programs.

(9) A "designated shortage area" shall mean an area designated by the Higher Education Coordinating Board as having a shortage in primary or optometric health care in the state of Washington.

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

PROPOSED

WSR 95-11-132
PROPOSED RULES
LOTTERY COMMISSION
[Filed May 24, 1995, 11:38 a.m.]

Original Notice.

Title of Rule: WAC 315-11A-145 Instant Game Number 145 ("Monte Carlo"), 315-11A-146 Instant Game Number 146 ("Holiday Bonus"), 315-11A-147 Instant Game Number 147 ("Winning Pairs"), and 315-11A-148 Instant Game Number 148 ("$2 Wild Bingo").

Purpose: To establish the game play rules and criteria for determining winners of Instant Game Numbers 145 ("Monte Carlo"), 146 ("Holiday Bonus"), 147 ("Winning Pairs") and 148 ("$2 Wild Bingo").

Statutory Authority for Adoption: RCW 67.70.040.

Statute Being Implemented: RCW 67.70.040.

Summary: See Purpose above.

Reasons Supporting Proposal: See Explanation of Rule below.

Name of Agency Personnel Responsible for Drafting: Jeff Burkhardt, Rules Coordinator, Olympia, 586-6583; Implementation and Enforcement: Evelyn P. Yenson, Director, Olympia, 753-3330.

Name of Proponent: Washington State Lottery Commission.

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

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 315-11A-145, 315-11A-146, 315-11A-147, and 315-11A-148, for each game, certain terms must be defined in order to provide consistency in the game play rules. The play criteria will explain how the game functions to licensed retailers and players. Rigid validation requirements are set forth which will prevent the lottery or its retailers from paying out prize money on invalid tickets.

Proposal does not change existing rules.

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:

1. 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.

2. 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, 5963 Corson Avenue South, Suite 106, Seattle, WA 98108, on July 7, 1995, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Jeff Burkhardt by June 27, 1995, (360) 586-6583.

Submit Written Comments to: Jeff Burkhardt, Lottery, FAX (360) 586-6586, by July 6, 1995.

Date of Intended Adoption: July 7, 1995.

May 23, 1995
Evelyn P. Yenson
Director

NEW SECTION

WAC 315-11A-145 Instant Game Number 145 ("Monte Carlo"). (1) Definitions for Instant Game Number 145.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the six play spots shall be labeled "house chip 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 145, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	ONE
	TWO
	THR
	FOR
	FIV
	SIX
	SVN
	EGT
	NIN

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$5.00," "$7.00," "$10.00," "$20.00," "$35.00," and "$7,000." 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 "house chip 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 145, 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
$ 5.00	FIV DOL
$ 7.00	SVN DOL
$ 10.00	TEN DOL
$ 20.00	TWY DOL
$ 35.00	THRTYFV
$ 7,000	SVNTHOU

(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 14500001-1-000 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 145 constitute the "pack number" which starts at 14500001; 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 145, 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)
FIV	$ 5.00	($2, $1, $1 AND $1; $3, $1 AND $1)
SVN	$ 7.00	($4, $1, $1 AND $1; $3, $3 AND $1)
FRN	$ 14.00	($7, $4 AND $3; $10, $2, $1 AND $1)
TTN	$ 21.00	($10, $5, $5 AND $1; $10, $7, $3 AND $1)
SVY	$ 70.00	($20, $20, $20 AND $10; $35 AND $35)

(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 145.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly one of the two play symbols labeled "house chip 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) 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 145 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 145; and/or

(ii) Vary the number of tickets sold in Instant Game Number 145 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 145.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 145 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 "house chip 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.

NEW SECTION

WAC 315-11A-146 Instant Game Number 146 ("Holiday Bonus"). (1) Definitions for Instant Game Number 146.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. 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 symbol."

(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 146, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	CCANE
	SNWMN
	CANDL
	FLAKE
	BELLL
	SOLDR
	WGIFT
	MISTL
	CHMNY

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$5.00," "$7.00," "$10.00," "$25.00," 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 symbol."

(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 146, 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
$ 5.00	FIV DOL
$ 7.00	SVN DOL
$ 10.00	TEN DOL
$ 25.00	TWF DOL
$ 1,000	ONETHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

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(f) Pack-ticket number: The twelve-digit number of the form 14600001-1-000 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 146 constitute the "pack number" which starts at 14600001; 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 146, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
THR	$ 3.00	($1, $1 AND $1; $2 AND $1)
FOR	$ 4.00	($1, $1, $1, AND $1; $3 AND $1)
TEN	$ 10.00	($2, $2, $2, $2 AND $2; $4, $2, $2, $1 AND $1)
FTN	$ 15.00	($3, $3, $3, $3 AND $3; $7, $7 AND $1)
TWY	$ 20.00	($5, $5, $5, $3 AND $2; $10, $5, $3, $1 AND $1)
FTY	$ 50.00	($10, $10, $10, $10 AND $10; $25 AND $25)

(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 146.**

(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 symbol," 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 146 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 146; and/or

(ii) Vary the number of tickets sold in Instant Game Number 146 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 146.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 146 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 symbol" 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-147 Instant Game Number 147 ("Winning Pairs"). (1) **Definitions for Instant Game Number 147.**

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. Two of these play symbols appear in each of the four play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. The play spots shall be labeled "Hand 1," "Hand 2," "Hand 3," and "Hand 4."

(b) Play symbol captions: The small printed characters appearing at the bottom of 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 at the bottom of each play symbol. The three-digit ticket number shall appear before each play symbol caption. For Instant Game

Number 147, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
2	TWO
3	THREE
4	FOUR
5	FIVE
6	SIX
7	SEVEN
8	EIGHT
9	NINE
10	TEN
J	JACK

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$6.00," "$8.00," "$16.00," "$20.00," "$40.00," and "$4,000." One of these prize symbols appears below each pair of captioned play symbols.

(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 147, 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
$ 8.00	EGT DOL
$ 16.00	SXT DOL
$ 20.00	TWY DOL
$ 40.00	$FORTY$
$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14700001-1-000 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 147 constitute the "pack number" which starts at 14700001; 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 147, 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)
SIX	$ 6.00	($3, $1, $1 AND $1; $3 AND $3)
EGT	$ 8.00	($4, $2, $1 AND $1; $2, $2, $2 AND $2)
SXT	$ 16.00	($4, $4, $4 AND $4; $8, $4 AND $4)
THT	$ 32.00	($8, $8, $8 AND $8; $16, $8, $4 AND $4)
ETY	$ 80.00	($20, $20, $20 AND $20; $40 AND $40)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 147.**

(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 the two play symbols appearing within one of the play spots match exactly, the matching play symbols shall be winning play symbols, and the bearer of the ticket shall win the prize below the winning play symbols.

(ii) The bearer of a ticket which has more than one pair of winning play symbols shall win the total of the prizes below each pair of winning play symbols.

(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 147 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 147; and/or

(ii) Vary the number of tickets sold in Instant Game Number 147 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 147.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 147 all of the following validation requirements apply:

(i) Exactly two play symbols must appear in each of the four play spots in the playfield on the front of the ticket.

(ii) Each play symbol must have a play symbol caption at the bottom of it and each must agree with its caption.

(iii) Each pair of play symbols 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

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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-148 Instant Game Number 148 ("$2 Wild Bingo"). (1) **Definitions for Instant Game Number 148.**

(a) Play symbols: The play symbols are all the integers from "1" to "75," inclusive, and the words "free" and "wild." Twenty-four of these play symbols shall appear in each of four play fields on the front of the ticket. Each playfield shall be known as a "player's card" and each ticket shall have four player's cards, one each labeled "Card 1," "Card 2," "Card 3," and "Card 4." The 24 play symbols in each card shall be placed in a 5-play-symbol by 5-play-symbol configuration with a "free" space in the center of each card. Each ticket shall have a "Caller's Card" which shall have 24 play symbols which shall be covered by latex.

(b) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(c) Pack-ticket number: The twelve-digit number of the form 14800001-1-000 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 148 constitute the "pack number" which starts at 14800001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(d) Retailer verification codes: Codes consisting of small letters found under the removable covering on the front of the ticket in the Caller's Card section which the lottery retailer uses to verify instant winners of $600.00 or less. For Instant Game Number 148, the retailer verification code is a three-letter code, with each letter appearing beneath the removable covering and among the play symbols in the Caller's Card section on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
TWO	$ 2.00	
THR	$ 3.00	
FIV	$ 5.00	($2 AND $3)
TEN	$ 10.00	
TWF	$ 25.00	
TRY	$ 30.00	($2, $3 AND $25)
FRY	$ 40.00	($2, $3, $10 AND $25)
FTY	$ 50.00	
OHF	$ 150.00	($25, $25 AND $100; $150)
TWH	$ 200.00	($50 AND $150; $25, $25, $50 AND $100)
THF	$ 250.00	
FVH	$ 500.00	

(e) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 148.**

(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 the play symbols in any of the player's cards, which match exactly the play symbols in the Caller's Card, form the following configurations, the bearer of the ticket shall be entitled to a prize as follows:

-Card 1: Either five matching play symbols, or four matching play symbols and the free space, in a horizontal, vertical or diagonal line in Card 1 shall entitle the bearer to $2.00.
- A matching play symbol in each and every corner space of Card 1 shall entitle the bearer to $25.00.
- Eight matching play symbols forming an "X" on Card 1 shall entitle the bearer to $150.00. The "X" must have the "free" space at its center.

-Card 2: Either five matching play symbols, or four matching play symbols and the free space, in a horizontal, vertical or diagonal line in Card 2 shall entitle the bearer to $3.00.
- A matching play symbol in each and every corner space of Card 2 shall entitle the bearer to $50.00.
- Eight matching play symbols forming an "X" on Card 2 shall entitle the bearer to $250.00. The "X" must have the "free" space at its center.

-Card 3: Either five matching play symbols, or four matching play symbols and the free space, in a horizontal, vertical or diagonal line in Card 3 shall entitle the bearer to $10.00.
- A matching play symbol in each and every corner space of Card 3 shall entitle the bearer to $100.00.
- Eight matching play symbols forming an "X" on Card 3 shall entitle the bearer to $500.00. The "X" must have the "free" space at its center.

-Card 4: Either five matching play symbols, or four matching play symbols and the free space, in a horizontal, vertical or diagonal line in Card 4 shall entitle the bearer to $25.00.
- A matching play symbol in each and every corner space of Card 4 shall entitle the bearer to $200.00.
- Eight matching play symbols forming an "X" on Card 4 shall entitle the bearer to $10,000. The "X" must have the "free" space at its center.

(ii) The "wild" play symbol shall appear only on the caller's card and shall be used to allow one play symbol of the player's choice on only one player's card to be counted as a matching play symbol.

(iii) The bearer of a ticket which is entitled to a prize from more than one player's card shall be entitled to the total of the prizes won on all the cards, provided however, that where there is more than one win possible on one player's card, only the highest prize on that player's card shall be paid.

(iv) Play symbols may not be combined, exchanged, or intermingled among or within one or more player's cards.

(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 148 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 148; and/or

(ii) Vary the number of tickets sold in Instant Game Number 148 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 148.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 148 all of the following validation requirements apply:

(i) Exactly 25 play symbols must appear in each of the player's cards on the front of the ticket. One of the play symbols shall be "free" which shall appear in the exact center of each player's card.

(ii) Exactly 24 play symbols must appear in the Caller's Card section on the front of the ticket.

(iii) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the artwork on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(iv) Each of the play symbols, the validation number, pack-ticket number, and retailer verification code must be printed in black ink.

(v) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section.

(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 95-11-138
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 24, 1995, 11:50 a.m.]

Original Notice.

Title of Rule: WAC 314-40-040 Guest and courtesy cards—Visitors.

Purpose: The purpose is to clearly specify what type of recruitment activities private clubs may conduct and the frequency and duration of these activities.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Some clubs have lengthy membership recruitment functions which are club sponsored parties open to the public. The board's experience has been that in almost all cases, this exception is being used in conjunction with casino nights with little attention being paid to membership recruitment.

Reasons Supporting Proposal: The language proposed limits these activities, more clearly explains how these events may be conducted and will prevent conflicts similar to those previously experienced.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, P.O. Box 43094, Olympia, 98504, 586-6701; Implementation and Enforcement: Gary W. Gilbert, P.O. Box 43094, Olympia, 98504, 586-3052.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: The amended language would limit the number of days a public membership drive may be held by a private club and restrict the type of activities which could be conducted. The board believes limitations need to be in place since previous experience has indicated most previous events have been ways to bring the public into Reno or casino nights with little attention being paid to membership recruitment or the benefits of becoming a club member. The language will standardize the use of such functions to all such licensees.

Proposal Changes the Following Existing Rules: Limits the number of days a public membership drive may be held and restricts the type of events to which such drives may be associated.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The agency has determined that the rule changes are not subject to the Regulatory Fairness Act since no direct additional costs are necessary for compliance and there are no new requirements placed on licensees in order to comply.

Hearing Location: Washington State Liquor Control Board, Board Room, 5th Floor, Capital Plaza Building, 1025 East Union, Olympia, WA 98504, on June 28, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact ATT TTY/TDD relay by June 26, 1995, TDD (800) 833-6388.

Submit Written Comments to: Public Information Office, Attn: Carter Mitchell, P.O. Box 43080, Olympia, WA 98504-3080, FAX (360) 664-9689, by June 27, 1995.

Date of Intended Adoption: July 5, 1995.

May 22, 1995
Joe McGavick
Chair

AMENDATORY SECTION (Amending Order 239, Resolution No. 248, filed 3/16/88)

WAC 314-40-040 Guest and courtesy cards—Visitors. (1) Guest cards may be issued only as follows:

(a) For clubs located within the limits of any city or town, only to those persons residing outside of an area ten miles from the limits of such city or town;

(b) For clubs located outside of any city or town only to those persons residing outside an area fifteen miles from the location of such club: *Provided,* That where such area limitation encroaches upon the limits of any city or town, the entire corporate limits of such city or town shall be included in the prohibited area;

(c) Such guest cards shall be issued for a period not to exceed two weeks and must be numbered serially, with a record of the issuance of each such card to be filed in a manner as to be readily accessible to the agents of the board;

(d) Mileage restrictions in (a) and (b) of this subsection shall not apply to contestants in golf or tennis tournaments conducted on the grounds of a licensed club.

(2) Visitors may be introduced when accompanied at all times by a member and may remain as long as such member is present in the club: *Provided,* That any such visitor may only enjoy the privileges of the club a reasonable number of times in any one calendar year.

(3) Persons who are members in good standing of a national veterans organization may enjoy the privileges of any licensed club affiliated with any national veterans organization, and persons who are members in good standing of a national fraternal organization may enjoy the privileges of any club affiliated with that particular national fraternal organization: *Provided,* That the bylaws of such clubs authorize reciprocal privileges: *Provided further,* That subsections (1) and (2) of this section shall not apply to members of such organizations.

(4) Persons who are members in good standing of organizations licensed as private nonfraternal clubs may enjoy the privileges of other licensed nonfraternal clubs: *Provided,* That the bylaws of such clubs authorize reciprocal privileges: *Provided further,* That subsections (1) and (2) of this section shall not apply to members of such clubs.

(5) Courtesy cards may be issued to the adult members of the immediate family of any member with or without charge upon application being made to the club by the member.

(6) In order to recruit new members and build club membership, a private club may hold ((~~one~~)) a public membership function for one day per calendar year where club liquor may be given or sold to those attending as a part of the membership drive activities. The function may be advertised only as a membership drive and may not be held in conjunction with any other activity or event.

(7) A person issued a guest card by the club manager pursuant to subsection (1) of this section may introduce visitors into the club provided the visitors are accompanied at all times by the sponsoring guest card holder; the visitors remain in the club only as long as the sponsoring guest card holder is present; the house rules or bylaws of the club provide guest card holders the privilege of introducing visitors into the club; and, such house rules or bylaws have been filed with the liquor control board.

WSR 95-11-139
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 24, 1995, 11:51 a.m.]

Original Notice.

Title of Rule: WAC 314-16-200 Minimum qualifications for issuance of Class E, F, and Classes EF licenses.

Purpose: Establishes minimum inventories to be maintained in order to obtain Class E or F licenses or combination EF licenses.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Proposed amendatory language will establish minimum inventory for food products for such licensees, requires such inventory to be accessible by customers and imposes the same requirements on beer specialty shops as are imposed on wine specialty shops.

Reasons Supporting Proposal: Standardize rules and make them applicable to all similar licensees.

Name of Agency Personnel Responsible for Drafting: Janice Lee Britt, P.O. Box 43094, Olympia, 98504-3094, 586-6701; Implementation and Enforcement: Gary W. Gilbert, P.O. Box 43094, Olympia, 98504-3094, 586-3052.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: Clarifies the required minimum inventory amount, how much of that amount must be food items that are accessible to customers. The dollar amounts have been in rule for many years, the amendatory language clarifies the value that must be in food products. The amendatory language also standardized beer specialty shops with wine specialty shops. The existing language sets for the specific criteria necessary for an applicant to apply for and receive either a Class E or F license for beer or wine for off-premises consumption or the combination EF license.

Proposal Changes the Following Existing Rules: The proposed rule clarifies the amount of inventory which must be food items which are accessible to customers. The existing rule already specifies a minimum dollar amount and the proposal further clarifies of that amount the value of food items to be carried in stock in order to qualify as a grocery store or wine or beer specialty store.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. The proposed changes clarify of the already specified minimum dollar amount of inventory, the amount thereof which must be in food products. It does not require licensees to expend additional amounts in order to meet existing minimum wholesale inventory figures.

Hearing Location: Washington State Liquor Control Board, Board Room, 5th Floor, Capital Plaza Building, Olympia, WA 98504, on June 28, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact ATT TTY/TDD Relay by June 26, 1995, TDD (800) 833-6388.

Submit Written Comments to: Public Information Office, Attn: Carter Mitchell, P.O. Box 43080, Olympia, WA 98504-3080, FAX (360) 664-9689, by June 27, 1995.

Date of Intended Adoption: July 5, 1995.

May 24, 1995
Joe McGavick
Chair

AMENDATORY SECTION (Amending Order 146, Resolution No. 155, filed 9/18/84)

WAC 314-16-200 Minimum qualifications for issuance of Class E, F, and Classes EF licenses. (1) The following are minimum qualifications necessary prior to consideration being given by the board to the issuance of Class E, F, or Classes EF licenses to store operations. The decision as to whether a license will or will not be issued in a particular case is, pursuant to RCW 66.24.010, a matter of board discretion. While the following minimum qualifications must be present before the board will give consideration to the issuance of a Class E, F, or Classes EF license to an applicant, the mere fact that an applicant meets these minimum qualifications is not to be construed as creating a vested right in the applicant to have a license issued.

(2) Before the board will issue a Class E, F, or Classes EF license to an applicant grocery store, the proposed licensed premises must be stocked with an inventory of food, grocery and related grocery store items in excess of $3,000 wholesale value, $2,000 of which must be food items. The minimum wholesale inventory required by this subsection shall be stocked and maintained within the confines of the licensed premises and accessible to customers and shall not include any gasoline, oil, auto parts, or tobacco products.

(3) Grocery stores which also sell gasoline must be stocked with an inventory of food, grocery, and related grocery store items in excess of $7,500, $5,000 of which must be food items wholesale value before the board will issue to them a Class E, F, or Classes EF license. The minimum wholesale inventory required by this subsection shall be stocked and maintained within the confines of the licensed premises and accessible to customers and shall not include any gasoline, oil, auto parts, or tobacco products. Marinas which sell gasoline for use in boats only shall be subject to the requirements of subsection (2) of this section.

(4) The minimum amounts referred to in subsections (2) and (3) of this section shall be maintained at the premises at all times they are licensed with the exception of beginning and closing inventory for seasonal operations or when the inventory is being sold out immediately prior to discontinuing or selling the business.

(5) Stores other than grocery stores must submit to the board a written commitment to establish and maintain a minimum wholesale inventory of beer and/or wine in the amount of $5,000 prior to the issuance of a license. This minimum inventory shall be maintained at the licensed premises at all times they are licensed.

(6) Subsections (2), (3), (4), and (5) of this section shall not apply to a licensee or licensees at a store or stores licensed prior to October 11, 1984, if on that date and thereafter said licensee(s) and/or his, her, their, or its transferee(s) continue to meet the requirements imposed by this section which were in effect pursuant to liquor control board Administrative Order 102, Resolution No. 111.

(7) If a Class E, Class F, or Classes EF licensee or applicant for such licenses does not meet or maintain the requirements provided for in subsections (2) through (6) of this section, the licensee or applicant may petition the board, setting forth any unusual, extenuating, or mitigating circumstances that may justify a variance, and the board may, under such terms and conditions it determines are in the best interest of the public, grant the variance.

PROPOSED

WSR 95-11-140
PROPOSED RULES
LIQUOR CONTROL BOARD
[Filed May 24, 1995, 11:52 a.m.]

Original Notice.

Title of Rule: WAC 314-16-111 Handling fee—Class H split case liquor orders.

Purpose: The existing rule requires a handling fee for split case orders placed by Class H licensees.

Statutory Authority for Adoption: RCW 66.08.030.

Summary: Following adoption of the original rule, industry worked with the board in order to reduce the costs of doing business by placing fewer split case orders. This reduction in handling resulted in the board's decision to repeal the rule.

Reasons Supporting Proposal: Alternative measures for reducing handling costs were developed following adoption of the rule. The board believes the rule is no longer necessary to keep costs for split case requests to a reasonable amount.

Name of Agency Personnel Responsible for Drafting: Jack Rabourn, 1025 East Union, Olympia, WA, (360) 753-6265; Implementation and Enforcement: Lowell Huebner, 1025 East Union, Olympia, WA, (360) 753-6255.

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

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

Explanation of Rule, its Purpose, and Anticipated Effects: If repealed, the rule will eliminated thereby removing the requirement that a handling fee be charged for split case orders placed by Class H liquor licensees.

Proposal Changes the Following Existing Rules: Repeals existing rule.

Has a Small Business Economic Impact Statement Been Prepared Under Chapter 19.85 RCW? No. Eliminates existing rule, thereby eliminating requirements placed on businesses operated and licensed as Class H (liquor by the

drink) licensees. Reduces regulation upon this class of licensee.

Hearing Location: Washington State Liquor Control Board, 1025 East Union, Capital Plaza Building, Fifth Floor Board Room, Olympia, WA 98504, on July 12, 1995, at 9:30 a.m.

Assistance for Persons with Disabilities: Contact ATT TTY/TDD Relay by July 11, 1995, TDD (800) 833-6388.

Submit Written Comments to: Public Information Office, Attn: Carter Mitchell, P.O. Box 43080, Olympia, WA 98504-3080, FAX (360) 664-9689, by July 11, 1995.

Date of Intended Adoption: July 19, 1995.

May 23, 1995
Joe McGavick
Chair

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 314-16-111	Split case handling fee for Class H liquor purchases.

WSR 95-11-008
PERMANENT RULES
DEPARTMENT OF ECOLOGY
[Order 94-25—Filed May 5, 1995, 12:42 p.m.]

Date of Adoption: May 5, 1995.

Purpose: Adoption of revised Thea Foss Waterway design and development plan and master program for shoreline development, city of Tacoma into the state master program, chapter 173-19 WAC.

Citation of Existing Rules Affected by this Order: Amending WAC 173-19-3514 City of Tacoma shoreline master program.

Statutory Authority for Adoption: RCW 90.58.200 Shoreline Act of 1971.

Pursuant to notice filed as WSR 95-03-078 on January 17, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 5, 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 May 5, 1995.

WSR 95-11-014
PERMANENT RULES
LOWER COLUMBIA COLLEGE
[Filed May 5, 1995, 2:22 p.m.]

Date of Adoption: April 19, 1995.

Purpose: To provide guidelines for the use of discovery in adjudicative proceedings.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to notice filed as WSR 95-06-052 on March 15, 1995 [February 27, 1995].

Effective Date of Rule: Thirty-one days after filing.

April 19, 1995
Vernon R. Pickett
President

NEW SECTION

WAC 132M-108-090 Discovery. Discovery in adjudicative proceedings may be permitted at the discretion of the presiding officer. In permitting discovery, the presiding officer shall make reference to the civil rules of procedure. The presiding officer shall have the power to control the frequency and nature of discovery permitted, and to order discovery conferences to discuss discovery issues.

WSR 95-11-022
PERMANENT RULES
DEPARTMENT OF TRANSPORTATION
[Order 151—Filed May 8, 1995, 1:18 p.m.]

Date of Adoption: May 8, 1995.

Purpose: WAC 468-95-100 Establishes compliance dates to specific sections for application of certain traffic control devices.

Citation of Existing Rules Affected by this Order: Amending WAC 468-95-100.

Statutory Authority for Adoption: Chapter 34.05 RCW and RCW 47.36.030.

Pursuant to notice filed as WSR 95-07-081 on March 16, 1995.

Effective Date of Rule: Thirty days after filing.

May 8, 1995
S. A. Moon
Deputy Secretary for Operations

AMENDATORY SECTION (Amending Order 127, filed 12/21/90, effective 1/21/91)

WAC 468-95-100 Compliance dates. Through rulings approved by the Federal Highway Administrator, the 1988 edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) contains compliance dates to specific sections for application of certain traffic control devices. These compliance dates are hereby amended as follows:

Ruling #	MUTCD Section	Compliance Date
IV-59	4D-2, 4D-7, 7D-5, 7D-9	12/31/95
((~~VIII-12~~	~~8B-3, 8B-4~~	~~12/31/94~~))
II-5	2D-48, 2H-1 Thru 2H-16	9/30/97
((~~II-33~~	~~2B-43, 2B-43a, 2A-11~~	~~9/30/93~~
~~II-86(e)~~	~~2B-43e~~	~~9/30/93~~
~~VI-3~~	~~3B-16, 6D-1, 6D-3~~	~~9/30/92~~))
II-110	2I-1 Thru 2I-7	9/30/95
III-38	3B-5	9/30/95
IV-58	2B-37, 4B-5(4)(c), 4B-6-2 4B-6(5)(b), 4B-6(8), 4B-12, 4B-18	9/30/2001
((~~VI-33~~	~~3F-2, 6C-3~~	~~9/30/93~~
~~VI-34~~	~~3F-2, 6C-3~~	~~9/30/93~~
~~IX-4~~	~~9B-20~~	~~9/30/93~~
~~II-89~~	~~6A-1 Thru 6A-6, 6H-1 Thru 6H-4~~	~~9/30/92~~))
II-122	2D-15, 2E-11, 2F-11	9/30/97
IV-73	4B-6-5(a), 4B-15	9/30/96
II-119	2B-44	11/30/97

The December 10, 1993, *Federal Register* published the *Federal Highway Administration's Docket No. 89-1, Notice No. 7,* adopting final amendments to the *Manual on Uniform Traffic Control Devices (MUTCD)* for work zone traffic control. The department shall adopt these amendments, and all necessary modifications thereto, by January 10, 1996.

WSR 95-11-025
PERMANENT RULES
LOTTERY COMMISSION
[Filed May 9, 1995, 12:51 p.m.]

Date of Adoption: May 5, 1995.

Purpose: To establish the game play rules and criteria for determining winners of Instant Games Nos. 142 ("Lucky

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Queen"), 143 ("High Stakes"), and 144 ("Instant Pay"); and to amend WAC 315-11A-122 and 315-11A-138.

Citation of Existing Rules Affected by this Order: Amending WAC 315-11A-122 and 315-11A-138.

Statutory Authority for Adoption: RCW 67.70.040.

Pursuant to notice filed as WSR 95-07-135 on March 22, 1995.

Changes Other than Editing from Proposed to Adopted Version: Game No. 144, "Instant Pay," was adopted with a revision to the game's name.

Effective Date of Rule: Thirty-one days after filing.

May 9, 1995
Evelyn P. Yenson
Director

NEW SECTION

WAC 315-11A-142 Instant Game Number 142 ("Lucky Queen"). (1) Definitions for Instant Game Number 142.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. One of these play symbols appears in each of the six play spots under the latex covering on the front of the ticket. The latex covered area shall be known as the playfield. Two of the six play spots shall be labeled "winning cards."

(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 142, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
4	FOUR
5	FIVE
6	SIX
7	SEVEN
8	EIGHT
9	NINE
10	TEN
J	JACK
Q	QUEEN

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$4.00," "$6.00," "$10.00," "$20.00," "$24.00," "$50.00," and "$5,000." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbols labeled "winning cards."

(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 142, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 4.00	FOR DOL
$ 6.00	SIX DOL
$ 10.00	TEN DOL
$ 20.00	TWY DOL
$ 24.00	TTF DOL
$ 50.00	$FIFTY$
$ 5,000	FIVTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14200001-1-000 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 142 constitute the "pack number" which starts at 14200001; 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 142, 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)
THR	$ 3.00	($1, $1 AND $1)
EGT	$ 8.00	($2, $2, $2 AND $2; $4 AND $4)
SXT	$ 16.00	($4, $4, $4 AND $4; $10 AND $6)
TTF	$ 24.00	($6, $6, $6 AND $6; $24)
FTY	$ 50.00	($20, $20 AND $10; $50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 142.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly one of the two play symbols labeled "winning cards," 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 142, the " Q " play symbol with the caption "QUEEN" shall always be a winning play symbol, and the bearer of a ticket which has a " Q " play symbol with the caption "QUEEN" shall be entitled to the prize shown below the " Q " 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 142 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 142; and/or

(ii) Vary the number of tickets sold in Instant Game Number 142 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 142.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 142 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 cards" 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.

NEW SECTION

WAC 315-11A-143 Instant Game Number 143 ("High Stakes"). (1) Definitions for Instant Game Number 143.

(a) Play symbols: The "play symbols" are listed below in (b) of this subsection. 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 cards."

(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 143, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
	TWO
	THREE
	FOUR
	FIVE
	SIX
	SEVEN
	EIGHT
	NINE
	TEN
	JACK
	QUEEN
	KING
	ACE

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$6.00," "$8.00," "$16.00," "$20.00," $50.00," and "$20,000." 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 cards."

(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 143, 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

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$ 6.00	SIX DOL
$ 8.00	EGT DOL
$ 16.00	SXT DOL
$ 20.00	TWY DOL
$ 50.00	$FIFTY$
$ 20,000	TWYTHOU

(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 14300001-1-000 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 143 constitute the "pack number" which starts at 14300001; 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 143, 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)
FOR	$ 4.00	($1, $1, $1 AND $1; $2 AND $2)
EGT	$ 8.00	($1, $1, $1, $1, $1, $1, $1 AND $1)
SXT	$ 16.00	($2, $2, $2, $2, $2, $2, $2 AND $2; $16)
TTF	$ 24.00	($3, $3, $3, $3, $3, $3, $3 AND $3; $6, $6, $6 AND $6; $20 AND $4)
OHN	$100.00	($20, $20, $20, $20 AND $20; $50 AND $50)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 143.**

(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 play symbols labeled "winning cards," 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 143, the " [image] " play symbol with the caption "ACE" shall always be a winning play symbol, and the bearer of a ticket which has a " [image] " play symbol with the caption "ACE" shall be entitled to the prize shown below the " [image] " 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 143 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 143; and/or

(ii) Vary the number of tickets sold in Instant Game Number 143 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 143.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 143 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 cards" 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.

NEW SECTION

WAC 315-11A-144 Instant Game Number 144 ("Instant Pay"). (1) **Definitions for Instant Game Number 144.**

(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 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 144, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$6.00," "$8.00," "$30.00," "$60.00," and "$500.00." One of these prize symbols appears below each of the play symbol captions, except that no prize symbol appears below the caption of the play symbol labeled "winning number."

(d) Prize symbol captions: The small printed characters which appear below the prize symbol and verify and correspond with that prize symbol. The prize symbol caption is a spelling out, in full or abbreviated form, of the prize symbol. For Instant Game Number 144, 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
$ 8.00	EGT DOL
$ 30.00	$THIRTY
$ 60.00	$SIXTY$
$ 500.00	FIVHUND

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered by latex.

(f) Pack-ticket number: The twelve-digit number of the form 14400001-1-000 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 144 constitute the "pack number" which starts at 14400001; 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 144, the retailer verification code is a three-letter code, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
THR	$ 3.00	($1, $1 AND $1; $2 AND $1)
SIX	$ 6.00	($3, $1, $1 AND $1; $4 AND $2; $6)
TLV	$ 12.00	($3, $3, $3 AND $3; $8 AND $4)
TTF	$ 24.00	($6, $6, $6 AND $6; $8, $8 AND $8)
SXY	$ 60.00	($30 AND $30; $60)
FVH	$ 500.00	

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 144.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner:

(i) When any of the four play symbols matches exactly the play symbol labeled "winning number," the matching play symbol shall be a winning play symbol, and the bearer of the ticket shall win the prize below the winning play symbol.

(ii) The bearer of a ticket which has more than one winning play symbol shall win the total of the prizes below each winning play symbol.

(c) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(d) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 144 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 144; and/or

(ii) Vary the number of tickets sold in Instant Game Number 144 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 144.**

(a) In addition to meeting all other requirements in these rules and regulations, to be a valid instant game ticket for Instant Game Number 144 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.

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(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 and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section.

(vii) Each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and in (a) of this subsection is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending WSR 94-19-063, filed 9/20/94, effective 10/21/94)

WAC 315-11A-122 Instant Game Number 122 ("High Card"). (1) **Definitions for Instant Game Number 122.**

(a) Play symbols: The following are the "play symbols": "7"; "8"; "9"; "10"; "J"; "Q"; ((~~and "K."~~)) "K"; and "A." One of these play symbols appears in each of the three play spots in the "your card" column and in each of the three play spots in the "dealer's card" column in the playfield on the front of the ticket.

(b) Play symbol captions: The small printed characters appearing below each play symbol which verify and correspond with that play symbol. The caption is a spelling out, in full or abbreviated form of the play symbol. One and only one of these captions appears under each play symbol. The number 1, 2 or 3 precedes each play symbol caption to indicate the location of the play symbol in Game (row) 1, Game 2 or Game 3. For Instant Game Number 122, the captions which correspond with and verify the play symbols are:

PLAY SYMBOL	CAPTION
7	SVN
8	EGT
9	NIN
10	TEN
J	JCK
Q	QUE
K	KNG
A	ACE

(c) Prize symbols: The following are the "prize symbols": "$1.00"; "$2.00"; "$6.00"; "$9.00"; "$40.00"; and "$4,000." One of these prize symbols appears for each game in the prize column on the front of the ticket.

(d) Prize symbol captions: The small printed characters appearing below the prize symbol which verify and correspond with that prize symbol. The caption is a spelling out, in full or abbreviated form, of the prize symbol. Only one caption appears under each prize symbol. The number 1, 2 or 3 precedes each prize symbol caption to indicate the location of the prize symbol in Game 1, Game 2 or Game 3. For Instant Game Number 122, the prize symbol captions which correspond with and verify the prize symbols are:

PRIZE SYMBOL	CAPTION
$ 1.00	ONE DOL
$ 2.00	TWO DOL
$ 6.00	SIX DOL
$ 9.00	NIN DOL
$ 40.00	$FORTY$
$ 4,000	FORTHOU

(e) Validation number: The unique nineteen-digit number on the front of the ticket. The number is covered with latex.

(f) Pack-ticket number: The twelve-digit number of the form 12200001-1-000 printed on the back of the ticket. The first three digits are the game identifier. The first eight digits of the pack-ticket number for Instant Game Number 122 constitute the "pack number" which starts at 12200001; the last three digits constitute the "ticket number" which starts at 000 and continues through 199 within each pack of tickets.

(g) Retailer verification codes: Codes consisting of small letters found under the removable latex covering on the front of the ticket which the lottery retailer uses to verify instant winners of $600.00 and less. For Instant Game Number 122, the retailer verification codes are three-letter codes, with each letter appearing in a varying three of six locations beneath the removable covering and among the play symbols on the front of the ticket. The retailer verification codes are:

VERIFICATION CODE	PRIZE	
ONE	$ 1.00	
TWO	$ 2.00	($1 AND $1)
SIX	$ 6.00	($2, $2 AND $2; $6)
TLV	$ 12.00	($6 AND $6; $9, $2 AND $1)
EGN	$ 18.00	($6, $6 AND $6; $9 AND $9)
FRY	$ 40.00	
ETY	$ 80.00	($40 AND $40)

(h) Pack: A set of two hundred fanfolded instant game tickets separated by perforations and packaged in plastic shrinkwrapping.

(2) **Criteria for Instant Game Number 122.**

(a) The price of each instant game ticket shall be $1.00.

(b) Determination of prize winning tickets: An instant prize winner is determined in the following manner: The bearer of a ticket having a play symbol in the "your card" column that is superior to the play symbol in the "dealer's

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card" column in the same game shall win the prize shown in the prize column for that game. The bearer of a ticket having winning play symbols in more than one game shall win the sum of the prizes in each winning game. Play symbols in different games may not be combined to win a prize.

(c) For purposes of this game, the ((~~"K"~~)) "A" shall be the play symbol with the highest superiority followed by "K," "Q," "J," "10," "9," "8," and "7" in that order.

(d) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game.

(e) The determination of prize winners shall be subject to the general ticket validation requirements of the lottery as set forth in WAC 315-10-070, to the particular ticket validation requirements for Instant Game Number 122 set forth in subsection (3) of this section, to the confidential validation requirements established by the director, and to the requirements stated on the back of each ticket.

(f) Notwithstanding any other provisions of these rules, the director may:

(i) Vary the length of Instant Game Number 122; and/or

(ii) Vary the number of tickets sold in Instant Game Number 122 in a manner that will maintain the estimated average odds of purchasing a winning ticket.

(3) **Ticket validation requirements for Instant Game Number 122.**

(a) In addition to meeting all other requirements in these rules and regulations, a valid instant game ticket for Instant Game Number 122 shall comply with all of the following validation requirements.

(i) Exactly one play symbol must appear in each of the three play spots in the "your card" column and in each of the three play spots in the "dealer's card" column under the latex covering on the front of the ticket.

(ii) Each of the six play symbols must have a caption below and each must agree with its caption.

(iii) Exactly one prize symbol for each of the three games must appear under the latex covering in the prize column on the front of the ticket.

(iv) Each of the three prize symbols must have a caption below it and each must agree with its caption.

(v) The display printing and the printed numbers, letters, and symbols on the ticket must be regular in every respect and correspond precisely with the specifications on file with the director. The numbers, letters, and symbols shall be printed as follows:

Play Symbols	Play Symbol Font
Prize Symbols	Prize Symbol Font
Captions	Caption Font
Pack-Ticket Number	Validation Font
Validation Number	Validation Font
Retailer Verification Code	Validation Font

(vi) Each of the play symbols and its caption, prize symbol and its caption, the validation number, pack-ticket number, and the retailer verification code must be printed in black ink.

(vii) Each of the play symbols must be exactly one of those described in subsection (1)(a) of this section and each of the play symbol captions must be exactly one of those described in subsection (1)(b) of this section, each of the prize symbols must be exactly one of those described in subsection (1)(c) of this section and each of the prize symbol captions must be exactly one of those described in subsection (1)(d) of this section.

(b) Any ticket not passing all the validation requirements in WAC 315-10-070 and (a) of this subsection is invalid and ineligible for any prize.

AMENDATORY SECTION (Amending WSR 95-03-062, filed 1/13/95, effective 2/13/95)

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," "13," "14," "15," "16," "17," "18," "19," "20," 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:

PLAY SYMBOL	CAPTION
2	TWO
3	THR
4	FOR
5	FIV
6	SIX
7	SVN
8	EGT
9	NIN
10	TEN
12	TLV
13	THN
14	FRN
15	FTN
16	SXT
17	SVT
18	EGN
19	NIT
20	TWY
	DLR

(c) Prize symbols: The following are the "prize symbols": "$1.00," "$2.00," "$3.00," "$4.00," "$5.00," "$10.00," "$20.00," "$25.00," 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

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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
$ 5.00	FIV DOL
$ 10.00	TEN DOL
$ 20.00	TWY DOL
$ 25.00	TWF 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; $3, $1 AND $1)
TEN	$ 10.00	($5 AND $5; $4, $4 AND $2; $10)
TWY	$ 20.00	($5, $5, $2, $2, $2, $2, $1 AND $1; $5, $5, $5 AND $5; $20)
FTY	$ 50.00	($10, $10, $5, $5, $5, $5, $5 AND $5; ((~~$20, $20 AND $10~~)) $25 AND $25)

(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 "[$$$]" play symbol shall always be a winning play symbol, and the bearer of a ticket which has a "[$$$]" 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 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.

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(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 95-11-027
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:25 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-257 Big game auction permits.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-096 on March 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-257 differs from the proposed version filed with the code reviser in the following specifics:

1. The elk hunting season dates were changed from Sept. 1-Dec. 15, 1996 to "The agency will recommend hunting season dates that do not overlap archery deer or elk seasons within the Sept. 1-Dec. 15, 1996" framework.

2. Auction permit hunts for moose and mountain goat were deleted.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-257 Big game auction permits

AUCTIONING OF PERMIT

The Director will select a conservation organization(s) to conduct the 1996 auction(s). 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 of and address of the successful bidder within ten days of the auction.

AUCTION PERMIT HUNT(S)

SPECIES - ELK

Hunting Season Dates: September 1 - December 15, 1996

Hunt Area: Any game management unit open to elk hunting except GMUs 157 (Watershed) and 485 (Green River).

Bag Limit: One bull elk

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.

WSR 95-11-028
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:26 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To repeal WAC 232-28-239 1994 Bighorn sheep auction permit, 232-28-244 1994-95 Special species hunting seasons and regulations, 232-28-243 1994-95 Special closures and firearm restriction areas, and 232-28-245 1994-95 Deer and elk permit hunting seasons.

Citation of Existing Rules Affected by this Order: Repealing WAC 232-28-244, 232-28-239, 232-28-243, and 232-28-245.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-099 on March 1, 1995.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

[REPEALER]

The following sections of the Washington Administrative Code are hereby repealed:

WAC 232-28-239	1994 Bighorn sheep auction permit
WAC 232-28-244	1994-95 Special species hunting seasons and regulations
WAC 232-28-243	1994-95 Special closures and firearm restriction areas
WAC 232-28-245	1994-95 Deer and elk permit hunting seasons

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

WSR 95-11-029
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:27 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-255 1996 Auction permit.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-105 on March 1, 1995.

Effective Date of Rule: Thirty-one days after filing.
April 22, 1995
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-255 1996 Auction permits

AUCTIONING OF PERMIT

The Director will select a conservation organization(s) to conduct the 1996 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(S)

SPECIES - BIGHORN SHEEP

Hunting Season Dates: September 1 - October 31, 1996

Hunt Area: Anywhere in eastern Washington south of Interstate 90.

Bag Limit: One 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 95-11-030
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:30 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-256 1995-96 Cougar permit quotas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-104 on March 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-256 differs from the proposed version filed with the code reviser in the following specifics:

1. The number of permits in Hunt Number 9005 (Blue Mountains) was increased from 50 to 60.

2. The number of permits in Hunt Number 9010 (Nooksack) was increased from 10 to 15.

3. The number of permits in Hunt Number 9011 (Skagit) was increased from 15 to 18.

4. The number of permits in Hunt Number 9012 (Snoqualmie) was increased from 12 to 15.

5. The number of permits in Hunt Number 9015 (Rainier) was increased from 10 to 15.

6. The number of permits in Hunt Number 9020 (Pend Oreille) was increased from 18 to 35.

7. The number of permits in Hunt Number 9021 (Colville) was increased from 20 to 40.

8. The number of permits in Hunt Number 9022 (Republic) was increased from 20 to 40.

9. The number of permits in Hunt Number 9023 (Spokane) was increased from 15 to 30.

10. The number of permits in Hunt Number 9024 (Blue Mountains) was increased from 25 to 60.

11. The number of permits in Hunt Number 9025 (Wenaha) was increased from 8 to 15.

12. The number of permits in Hunt Number 9026 (Okanogan) was increased from 23 to 45.

13. The number of permits in Hunt Number 9027 (Chelan) was increased from 20 to 40.

14. The number of permits in Hunt Number 9028 (Yakima) was increased from 10 to 20.

15. The number of permits in Hunt Number 9029 (Nooksack) was increased from 3 to 15.

16. The number of permits in Hunt Number 9030 (Skagit) was increased from 8 to 18.

17. The number of permits in Hunt Number 9031 (Snoqualmie) was increased from 6 to 15.

18. The number of permits in Hunt Number 9032 (North Olympic Peninsula) was increased from 18 to 35.

19. The number of permits in Hunt Number 2033 [9033] (South Olympic Peninsula) was increased from 8 to 15.

20. The number of permits in Hunt Number 2034 [9034] (Rainier) was increased from 5 to 15.

21. The number of permits in Hunt Number 2035 [9035] (South Puget Sound) was increased from 2 to 3.

22. The number of permits in Hunt Number 2036 [9036] (Cowlitz) was increased from 1 to 2.

23. The number of permits in Hunt Number 2037 [9037] (Skamania) was increased from 1 to 2.

Effective Date of Rule: Thirty-one days after filing.
April 22, 1995
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-256 1995-96 Cougar permit quotas

Hunt No.	Unit	Description	1995-96 Permits
9001	1	Pend Oreille	35
9002	2	Colville	40
9003	3	Republic	40
9004	4	Spokane	30
9005	5	Blue Mountains	60
9006	6	Wenaha	15
9007	7	Okanogan	45

9008	8	Chelan	40
9009	9	Yakima	20
9010	10	Nooksack	15
9011	11	Skagit	18
9012	12	Snoqualmie	15
9013	13	North Olympic Peninsula	35
9014	14	South Olympic Peninsula	15
9015	15	Rainier	15
9016	16	South Puget Sound	3
9017	17	Cowlitz	2
9018	18	Skamania	2
9019	19	Pacific	1
9020	1	Pend Oreille	35
9021	2	Colville	40
9022	3	Republic	40
9023	4	Spokane	30
9024	5	Blue Mountains	60
9025	6	Wenaha	15
9026	7	Okanogan	45
9027	8	Chelan	40
9028	9	Yakima	20
9029	10	Nooksack	15
9030	11	Skagit	18
9031	12	Snoqualmie	15
9032	13	North Olympic Peninsula	35
9033	14	South Olympic Peninsula	15
9034	15	Rainier	15
9035	16	South Puget Sound	3
9036	17	Cowlitz	2
9037	18	Skamania	2
9038	19	Pacific	1

WSR 95-11-031
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)

[Filed May 10, 1995, 8:32 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-254 1995 Mountain goat permit quotas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-103 on March 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-254 differs from the proposed version filed with the code reviser in the following specifics:

1. The number of permits in Hunt Number 6602 (Quilcene River) was increased from 5 to 25.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

PERMANENT

NEW SECTION

WAC 232-28-254 1995 Mountain goat permit quotas

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
6201	Mount Chopaka	Sept. 16-Oct. 31	Goat Unit 2-1	Any Legal Weapon	1
6202	Methow	Sept. 16-Oct. 31	Goat Unit 2-2	Any Legal Weapon	8
6302	N. Wenatchee Mtns.	Sept. 16-Oct. 31	Goat Unit 3-2	Any Legal Weapon	1
6303	Goat & Davis Mtns.	Sept. 16-Oct. 31	Goat Unit 3-3	Archery Only	1
6304	Snoqualmie	Sept. 16-Oct. 31	Goat Unit 3-4	Any Legal Weapon	1
6305	Cle Elum	Sept. 16-Oct. 31	Goat Unit 3-5	Muzzleloader Only	1
6306	Naches Pass	Sept. 16-Oct. 31	Goat Unit 3-6	Any Legal Weapon	1
6307	Bumping River	Sept. 16-Oct. 31	Goat Unit 3-7	Any Legal Weapon	1
6308	Bumping River	Sept. 16-Oct. 31	Goat Unit 3-8	Muzzleloader Only	1
6309	Tieton River	Sept. 16-Oct. 31	Goat Unit 3-9	Any Legal Weapon	3
6401	Ruth Creek	Sept. 16-Oct. 31	Goat Unit 4-1	Any Legal Weapon	7
6403	Chowder Ridge	Sept. 16-Oct. 31	Goat Unit 4-3	Any Legal Weapon	2
6404	Lincoln Peak	Sept. 16-Oct. 31	Goat Unit 4-4	Any Legal Weapon	2
6407	Avalanche Gorge	Sept. 16-Oct. 31	Goat Unit 4-7	Any Legal Weapon	5
6408	East Ross Lake	Sept. 16-Oct. 31	Goat Unit 4-8	Any Legal Weapon	10
6409	Jack Mountain	Sept. 16-Oct. 31	Goat Unit 4-9	Any Legal Weapon	2
6432	Foss River	Sept. 16-Oct. 31	Goat Unit 4-32	Any Legal Weapon	10
6434	Pratt River	Sept. 16-Oct. 31	Goat Unit 4-34	Any Legal Weapon	10
6438	Corral Pass	Sept. 16-Oct. 31	Goat Unit 4-38	Archery Only	4
6502	Tatoosh	Sept. 16-Oct. 31	Goat Unit 5-2	Any Legal Weapon	5
6503	Smith Creek	Sept. 16-Oct. 31	Goat Unit 5-3	Archery Only	5
6504	Goat Rocks	Sept. 16-Oct. 31	Goat Unit 5-4	Any Legal Weapon	10
6602	Quilcene River	Sept. 16-Oct. 31	Goat Unit 6-2	Archery Only	25
6603	Hamma Hamma River	Sept. 16-Oct. 31	Goat Unit 6-3	Archery Only	10

WSR 95-11-032
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:34 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-253 1995 Mountain sheep (bighorn) permit quotas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-101 on March 1, 1995.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

PERMANENT

NEW SECTION

WAC 232-28-253 1995 Mountain sheep (bighorn) permit quotas

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
5002	Vulcan Mountain	Sept. 15-Oct. 13	Sheep Unit 2	Any Legal Weapon	2
5003	Tucannon River	Sept. 15-Oct. 13	Sheep Unit 3	Any Legal Weapon	1
5005	Umtanum	Sept. 15-Oct. 13	Sheep Unit 5	Any Legal Weapon	3
5008	Mountainview	Sept. 15-Oct. 13	Sheep Unit 8	Any Legal Weapon	2
5009	Blackbutte	Sept. 15-Oct. 13	Sheep Unit 9	Any Legal Weapon	2
5010	Mt. Hull	Sept. 15-Oct. 13	Sheep Unit 10	Any Legal Weapon	1
5011	Wenaha Wilderness	Sept. 15-Oct. 13	Sheep Unit 11	Any Legal Weapon	3

WSR 95-11-033
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:36 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-252 1995 Moose permit quotas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-102 on March 1, 1995.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-252 1995 Moose permit quotas

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
8001	Selkirk Mtns.	Oct. 1-Nov. 30	GMU 113	Any Legal Weapon	10

8002	Mt. Spokane	Oct. 1-Nov. 30	GMU 124	Any Legal Weapon	5
8003	Chewelah	Oct. 1-Nov. 30	GMU 118	Any Legal Weapon	5
8004	Boyer	Oct. 1-Nov. 30	GMU 119	Any Legal Weapon	3
8005	Aladdin	Oct. 1-Nov. 30	GMU 111	Any Legal Weapon	2

WSR 95-11-034
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:38 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-250 1995 Deer permit quotas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-097 on March 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-250 differs from the proposed version filed with the code reviser in the following specifics:

1. The number of permits in Hunt Number 1001 (Curlew) was decreased from 200 to 100.

2. The number of permits in Hunt Number 1018 (Mayview A) was decreased from 400 to 150.

3. The number of permits in Hunt Number 1049 (Lincoln) was increased from 100 to 150.

4. Game Management Unit 306 was added to Hunt Number 1123 (Entiat).

5. The number of permits in Hunt Number 1084 (Pilchuck) was decreased from 100 to 50.

6. On page four, under the single asterisk, the spelling of the name Stephens was changed to Stevens.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

NEW SECTION

WAC 232-28-250 1995 Deer permit quotas

MODERN FIREARM PERMIT HUNTS (MUZZLELOADERS MAY APPLY)

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1001	Curlew	Oct. 7-13	GMU 100	Whitetail, Antlerless Only	100
1002	Boulder	Oct. 7-13	GMU 103	Whitetail, Antlerless Only	150
1003	Kelly Hill	Oct. 7-13	GMU 105	Whitetail, Antlerless Only	250
1004	Douglas	Oct. 7-13	GMU 108	Whitetail, Antlerless Only	450
1005	Aladdin A	Oct. 7-13	GMU 111	Whitetail, Antlerless Only	150
1006	Aladdin B	Nov. 22-26	GMU 111	Whitetail, Either Sex	25
1007	Selkirk	Oct. 7-13	GMU 113	Whitetail, Antlerless Only	50
1008	Chewelah	Oct. 7-13	GMU 118	Whitetail, Antlerless Only	250
1009	Boyer A	Oct. 7-13	GMU 119	Whitetail, Antlerless Only	275
1010	Boyer B	Nov. 22-26	GMU 119	Whitetail, Either Sex	25
1011	Huckleberry	Oct. 7-13	GMU 121	Whitetail, Antlerless Only	900
1012	Mt. Spokane	Oct. 7-13	GMU 124	Whitetail, Antlerless Only	600
1013	Cheney	Oct. 7-13	GMU 130	Antlerless Only	150

1014	Roosevelt	Oct. 7-13	GMU 133	Antlerless Only	550
1015	Harrington	Nov. 8-19	GMU 136	Antlerless Only	175
1016	Steptoe	Nov. 8-19	GMU 139	Antlerless Only	300
1017	Almota	Nov. 8-19	GMU 142	Antlerless Only	400
1018	Mayview A	Oct. 1-8	GMU 145	Antlerless Only	150
1019	Mayview B	Nov. 8-19	GMU 145	Antlerless Only	400
1020	Starbuck	Nov. 8-19	GMU 148	Antlerless Only	250
1021	Eureka	Nov. 8-19	GMU 151	Antlerless Only	250
1022	Blue Creek A	Nov. 8-19	GMU 154	Whitetail, Antlerless Only	150
1023	Touchet	Nov. 8-19	GMU 160	Whitetail, Antlerless Only	75
1024	Eckler	Nov. 8-19	GMU 161	Whitetail, Antlerless Only	75
1025	Marengo A	Nov. 8-19	GMU 163	Whitetail, Antlerless Only	125
1026	Marengo B	Nov. 8-19	GMU 163	Antlerless Only	225
1027	Peola	Nov. 8-19	GMU 178	Antlerless Only	150
1028	Couse	Nov. 8-19	GMU 181	Whitetail, Antlerless Only	100
1029	Blue Mtns. Foothills A	Nov. 8-21	GMUs 148, 151, 154, 160, 161, 163, 166	Whitetail, 3 Pt. Min. or Antlerless	100
1030	Blue Mtns. Foothills B	Nov. 8-21	GMUs 145, 172, 175, 178, 181	Whitetail, 3 Pt. Min. or Antlerless	100
1031	East Okanogan	Dec. 6-13	GMUs 200, 206	Whitetail, Either Sex	50
1032	West Okanogan	Dec. 6-13	GMUs 209, 218, 224, 231, 233	Whitetail, Either Sex	50
1033	Wannacut A	Oct. 30-Nov. 5	GMU 209	Antlerless Only	50
1034	Sinlahekin A	Oct. 30-Nov. 5	GMU 215	Whitetail, Antlerless Only	50
1035	Sinlahekin B	Dec. 6-13	GMU 215	Whitetail, Either Sex	25
1036	Chewuch	Oct. 30-Nov. 5	GMU 218	Antlerless Only	5
1037	Pearrygin	Oct. 30-Nov. 5	GMU 224	Antlerless Only	50
1038	Gardner	Oct. 30-Nov. 5	GMU 231	Antlerless Only	5
1039	Pogue	Oct. 30-Nov. 5	GMU 233	Antlerless Only	25
1040	Big Bend A	Oct. 16-22	GMU 248	Antlerless Only	100
1041	Badger	Oct. 16-22	GMU 266	Antlerless Only	100
1042	Moses Coulee A	Oct. 16-22	GMU 269	Antlerless Only	100
1043	Beezley	Oct. 16-22	GMU 272	Antlerless Only	100
1044	Wenatchee A	Nov. 1-15	Portion of GMU 314*	Antlerless Only	150
1045	Guemes Island A	Oct. 14-31	Guemes Island in GMU 405	Either Sex	100
1046	Guemes Island B	Nov. 1-21	Guemes Island in GMU 405	Either Sex	100
1047	Green River A	Oct. 21-27	GMU 485	Either Sex	40
1048	Green River B	Oct. 21-27	GMU 485	Antlerless Only	30
1049	Lincoln	Oct. 21-31	GMU 501	Either Sex	150
1050	Mossyrock	Oct. 21-31	GMU 505	Either Sex	100
1051	Willapa Hills	Oct. 21-31	GMU 506	Either Sex	75
1052	Stormking	Oct. 21-31	GMU 510	Either Sex	50
1053	Sawtooth	Oct. 21-31	GMU 512	Either Sex	50
1054	Packwood	Oct. 21-31	GMU 516	Either Sex	30
1055	Ryderwood	Oct. 21-31	GMU 530	Either Sex	50
1056	Coweeman	Oct. 21-31	GMU 550	Either Sex	60
1057	Lewis River	Oct. 21-31	GMU 560	Either Sex	50
1058	Siouxon	Oct. 21-31	GMU 572	Either Sex	50
1059	Hoko	Oct. 21-31	GMU 601	Either Sex	50
1060	Pysht	Oct. 21-31	GMU 603	Either Sex	100
1061	Soleduck	Oct. 21-31	GMU 607	Either Sex	35
1062	Goodman	Oct. 21-31	GMU 612	Either Sex	50
1063	Clearwater	Oct. 21-31	GMU 615	Either Sex	50
1064	Olympic	Oct. 21-31	GMU 621	Either Sex	75
1065	Coyle	Oct. 21-31	GMU 624	Either Sex	100
1066	Mason Lake	Oct. 21-31	GMU 633	Either Sex	60
1067	Skokomish	Oct. 21-31	GMU 636	2 Pt. Min. or Antlerless	100
1068	Wynoochee	Oct. 21-31	GMU 648	Either Sex	50
1069	North River	Oct. 21-31	GMU 658	Either Sex	40
1070	Minot Peak	Oct. 21-31	GMU 660	Either Sex	75

1071	Capitol Peak	Oct. 21-31	GMU 663	Either Sex	35
1072	Deschutes	Oct. 21-31	GMU 666	Either Sex	75
1073	Skookumchuck A	Oct. 21-31	GMU 667	Either Sex	200
1074	Palix	Oct. 21-31	GMU 669	Either Sex	25
1075	Fall River	Oct. 21-31	GMU 672	Either Sex	90
1076	Nemah	Oct. 21-31	GMU 678	Either Sex	25
1123	Entiat	Nov. 1-12	GMU 306, 308	Antlerless Only	500

*Successful applicants will be mailed a map of the hunt boundary.

MUZZLELOADER ONLY

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1077	Blue Creek B	Nov. 22-Dec. 3	GMU 154	Whitetail, 3 Pt. Min. or Antlerless	50
1078	Wannacut B	Nov. 11-19	GMU 209	Mule Deer, Antlerless Only Whitetail, Either Sex	50
1079	Chiliwist	Nov. 11-19	GMU 239	Mule Deer, Antlerless Only Whitetail, Either Sex	100
1080	Alta	Nov. 11-19	GMU 242	Mule Deer, Antlerless Only Whitetail, Either Sex	25
1081	Moses Coulee B	Nov. 25-Dec. 17	GMU 269	Antlerless Only	50
1082	Manson	Nov. 11-19	GMU 300	Either Sex	200
1083	Chiwawa	Nov. 11-19	GMU 304	Either Sex	200
1084	Pilchuck	Dec. 2-6	Deer Area 041	Antlerless Only	50
1085	Yale	Nov. 22-Dec. 12	GMU 554	Either Sex	50

YOUTH HUNTER OPPORTUNITY

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1086	Northeast A	Oct. 14-31	GMUs 100-124	Whitetail, Either Sex	400
1087	Mica, Cheney	Oct. 14-22	GMUs 127, 130	3 Pt. Min. or Antlerless	150
1088	Davenport	Oct. 14-22	GMUs 133, 136	3 Pt. Min. or Antlerless	150
1089	Whitman	Oct. 14-22	GMUs 139, 142	3 Pt. Min. or Antlerless	150
1090	Starbuck B	Oct. 1-8	GMU 148	Antlerless Only	90
1091	Marengo B	Oct. 1-8	GMU 163	Antlerless Only	90
1092	Blue Mtns. Foothills C	Oct. 14-22	GMUs 148, 151, 154, 160, 161, 163, 166	3 Pt. Min. or Antlerless	125
1093	Blue Mtns. Foothills D	Oct. 14-22	GMUs 145, 172, 175, 178, 181	3 Pt. Min. or Antlerless	125
1094	Big Bend B	Oct. 14-22	GMU 248	Either Sex	25
1095	Toutle	Oct. 14-29	GMU 556	Either Sex	25
1096	Wind River	Oct. 21-Nov. 5	GMU 574	2 Pt. Min. or Antlerless	25
1097	Satsop	Oct. 21-31	GMU 651	Either Sex	10
1098	Skookumchuck B	Oct. 21-31	GMU 667	Either Sex	40

SENIOR HUNTER OPPORTUNITY

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1099	Northeast B	Oct. 14-31	GMUs 100-124	Whitetail, Either Sex	400
1100	Southcentral	Oct. 14-22	GMUs 127-142	3 Pt. Min. or Antlerless	400
1101	Starbuck C	Oct. 1-8	GMU 148	Antlerless Only	90
1102	Marengo C	Oct. 1-8	GMU 163	Antlerless Only	90
1103	Blue Mtns. Foothills E	Oct. 14-22	GMUs 148, 151, 154, 160, 161, 163, 166	3 Pt. Min. or Antlerless	100
1104	Blue Mtns. Foothills F	Oct. 14-22	GMUs 145, 172, 175, 178, 181	3 Pt. Min. or Antlerless	100

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1105	Roosevelt A	Nov. 22-26	GMU 133	Whitetail, 3 Pt. Min. or Antlerless	40
1106	Almota	Nov. 22-26	GMU 142	Whitetail, 3 Pt. Min. or Antlerless	40
1107	Wenatchee B	Nov. 15-29	Portion of GMU 314*	Either Sex	10
1108	Mt. Adams	Oct. 1-12	Elk Area 059	2 Pt. Min. or Antlerless	5

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*Successful applicants will be mailed a map of the hunt boundary.

SPECIAL HUNTS FOR DISABLED, BLIND OR VISUALLY IMPAIRED

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1109	Blue Mtns. Foothills G	Nov. 8-21	GMUs 148, 151, 154, 160, 161, 163, 166	3 Pt. Min. or Antlerless	10
1110	Douglas	Nov. 22-26	GMU 108	Whitetail, Either Sex	25
1111	Big Bend C	Oct. 19-24	GMU 248	Antlerless Only	25
1112	Entiat	Nov. 1-15	GMU 308	Antlerless Only	10
1113	Green River C	Oct. 21-27	GMU 485	Antlerless Only	5
1114	Margaret	Oct. 14-31	GMU 524	Antlerless Only	25
1115	Bear River	Oct. 14-31	GMU 681	2 Pt. Min. or Antlerless	20

PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
*	Wilson A	Oct. 1-Dec. 31	PLWMA 201	Buck Only	25
1116	Wilson B	Oct. 1-Dec. 31	PLWMA 201	Buck Only, Young Hunters Only**	2
1117	Wilson C	Oct. 1-Dec. 31	PLWMA 201	Antlerless Only, Young Hunters Only**	50
1118	Wilson D	Oct. 1-Dec. 31	PLWMA 201	Antlerless Only, Disabled or Blind/Visually Handicapped Hunters Only	10
1119	Wilson E	Oct. 1-Dec. 31	PLWMA 201	Antlerless Only, AHE Hunters Only	10

*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.

CHAMPION'S KAPOWSIN TREE FARM

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995 Permits
1120	Kapowsin North	Dec. 8-12	PLWMA 401A North	Antlerless Only, Senior Hunters (Age 65+)	50
1121	Kapowsin Central	Dec. 8-12	PLWMA 401B Central	Antlerless Only	100
1122	Kapowsin South	Dec. 9, 10, 16, 17	PLWMA 401C South	Antlerless Only, Young* or Disabled or Blind/Visually Handicapped Hunters Only	100

*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.

WSR 95-11-035
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)

[Filed May 10, 1995, 8:40 a.m.]

Date of Adoption: April 22, 1995.

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 95-06-100 on March 1, 1995.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 94-155, filed 1/10/95)]

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

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28 to Road "U" N.W. in Grant County; then south on Road "U" N.W. to Road "9" N.W.; then west on Road "9" N.W. to Ancient Lake Road; then south on the Ancient Lake Road to the northwest corner of Section 8, T19N, R23E W.M. (yellow cattle guard); then west to midstream of the Columbia River; then north up midstream of the Columbia River to East Wenatchee and the point of beginning. (See official road map of Douglas and Grant counties)

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

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

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

Elk Area No. 010 South Spokane (Spokane County) the following portion of game management units 127 and 130: Beginning at Tyler near the junction of Tyler Road (State Highway 904) and I-90; then northeast along I-90 to the Idaho state line; then south along the Washington-Idaho line to Elder Road; then west along Elder Road to Hangman Creek; then north along Hangman Creek to State Highway 195 at Hatch Road; then south along State Highway 195 to the Cheney Spangle Road; then west along the Cheney Spangle Road to Cheney; then west along Tyler Road (State Highway 904) to the point of beginning. (See Washington Atlas & Gazetteer)

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

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

Elk Area No. 030 Reecer Creek (Kittitas County): Beginning at the Highline Canal; then north along the Reecer Creek Road and USFS 35 Road to the junction of the USFS 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

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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~~)) 063 South ((~~Bank~~)) 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 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~~)) 062 South ((~~Elma~~)) 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 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.

PERMANENT

WSR 95-11-036
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)

[Filed May 10, 1995, 8:41 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To amend WAC 232-28-248 1995-96 Special closures and firearm restriction areas.

Citation of Existing Rules Affected by this Order: Amending 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 95-06-106 on March 1, 1995.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 94-150, filed 1/10/95)]

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~~)) area is closed to all big game hunting ((~~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~~)) Elma 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~~)) 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.
Island	That portion of GMU 410 (Island) located on Camano and Whidbey islands.
Jefferson	Indian and Marrowstone islands.
King	The area west of Highway 203 (Monroe-Fall City-Preston) to Interstate 90 (I-90), I-90 to Highway 18, Highway 18 to Interstate 5 (I-5), I-5 to the Pierce-King County line; Vashon and Maury islands. The following portion of GMU 484 (Puyallup): Beginning at the intersection of State Highway 410 and the southeast Mud Mountain Dam Road near the King/Pierce County line north of Buckley; then east along the southeast Mud Mountain Road to 284th Avenue Southeast; then north along 284th Avenue Southeast to State Highway 410; then west along Highway 410 to the point of the beginning. (This restriction includes high power rifles and muzzleloaders.)
Kitsap	East of State Highway 16 originating at the Tacoma Narrows Bridge to Gorst, and east of Highway 3 to Newbury Hill Road, north of Newbury Hill Road and the Bremerton-Seabeck Highway to Big Beef Creek Bridge; all of Bainbridge Island, and Bangor Military Reservation.
Kittitas	GMU 334 (Ellensburg) Closed to high power rifles during deer and elk seasons.
Mason	GMU 633 (Mason Lake) south of Hammersley Inlet; and all of Harstene Island.
Pacific	GMU 684 (Long Beach) west of Sand Ridge Road.

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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.

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

PERMANENT

WSR 95-11-037
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)

[Filed May 10, 1995, 8:43 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To amend 232-28-246 1995-96 Deer and elk permit hunting seasons.

Citation of Existing Rules Affected by this Order: Amending 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 95-06-107 on March 1, 1995.

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:

1. On page 3, GMU 306 was added to the boundary description of Hunt 1123 (Entiat).

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

AMENDATORY SECTION [(Amending Order 84-148, filed 1/10/95)]

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.

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, 163, 166
1030	Blue Mtns. Foothills B	Nov. 8-21	Whitetail, 3 Pt. Min. or Antlerless	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*

PERMANENT

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
1123	Entiat	Nov. 1-12	Antlerless Only	GMU 306, 308

*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 Whitetail, Either Sex	GMU 209
1079	Chiliwist	Nov. 11-19	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 239
1080	Alta	Nov. 11-19	Mule Deer, Antlerless Only Whitetail, Either Sex	GMU 242
1081	Moses Coulee B	Nov. 25-Dec. 17	Antlerless Only	GMU 269
1082	Manson	Nov. 11-19	Either Sex	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.

PERMANENT

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

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.

PERMANENT

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.

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 B	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~~)) Either Sex	CC or CM	Elk Area 033
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	GMU 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	GMU 340, 342

PERMANENT

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.

PERMANENT

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

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, WM	PLWMA 401B, 401C

*Permit season for archery tag holders Sept. 1-14; modern firearm Nov. 1-13; and Muzzleloader Nov. 22-Dec. 5

PERMANENT

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 C Oct. 5-11 Spike Bull or Antlerless~~))					
((~~4002~~))					
4001	Mountain View ((~~D~~)) B	Oct. 5-11	Any Bull	BM	GMU 172
((~~4003~~))					
4002	Mission	Oct. 5-11	Any Bull	CM	GMU 314
((~~4004~~))					
4003	Cle Elum A	Oct. 1-12	Either Sex	YM	ML Area 910
((~~4005~~))					
4004	Cle Elum B	Nov. 16-Dec. 8	Either Sex	YM	ML Area 910
((~~4006~~))					
4005	Umtanum B	Oct. 8-12	Either Sex	YM	GMU 342
((~~4007~~))					
4006	Cowiche C	Oct. 8-12	Either Sex	YM	GMU 368
((~~4008~~))					
4007	Stella	Nov. 22-Dec. 12	Either Sex	WM	GMU 504
((~~4009~~))					
4008	Boistfort B	Jan. 16-31, 1996	Antlerless Only	WM	Elk Area 054
((~~4010~~))					
4009	Yale	Nov. 22-Dec. 12	Either Sex	WM	GMU 554

((~~4011~~)) 4010	Toledo	Jan. 2-16, 1996	Antlerless Only	WM	Elk Area 029
((~~4012~~)) 4011	Chinook	Jan. 16-Feb. 15, 1996	Antlerless Only	WM	Elk Area 069
((~~4013~~)) 4012	North River	Nov. 18-Dec. 6	Antlerless Only	WM	GMU 658
((~~4014~~)) 4013	Elwha	Dec. 15-Jan. 15, 1996	Antlerless Only	WM	ML Area 962
((~~4015~~)) 4014	South Elma	Oct. 1-13	Antlerless Only	WM	Elk Area 063

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.

11. The permit number for Hunt Number 2042 (Rimrock A) was reduced from 400 to 300.

12. The permit number for Hunt Number 2044 (Cowiche A) was reduced from 200 to 150.

13. The permit number for Hunt Number 2097 (Kapowsin North) was reduced from 15 to 10.

Effective Date of Rule: Thirty-one days after filing.

April 22, 1995
John C. McGlenn
Chairman

PERMANENT

WSR 95-11-038
PERMANENT RULES
FISH AND WILDLIFE COMMISSION
(Wildlife)
[Filed May 10, 1995, 8:45 a.m.]

Date of Adoption: April 22, 1995.

Purpose: To adopt WAC 232-28-251 1995-96 Elk permit quotas.

Statutory Authority for Adoption: RCW 77.12.040.

Pursuant to notice filed as WSR 95-06-098 on March 1, 1995.

Changes Other than Editing from Proposed to Adopted Version: The adopted version of WAC 232-28-251 differs from the proposed version filed with the code reviser in the following specifics:

1. The permit number for Hunt Number 2005 (Blue Creek) was reduced from 40 to 10.

2. The permit number for Hunt Number 2012 (Mountainview A) was changed from 25 to 10.

3. The permit number for Hunt Number 2029 (Taneum A) was reduced from 400 to 200.

4. The permit number for Hunt Number 2030 (Manastash A) was reduced from 400 to 200.

5. The permit number for Hunt Number 2032 (Umtanum A) was reduced from 400 to 200.

6. The permit number for Hunt Number 2034 (Little Naches A) was reduced from 400 to 200.

7. The permit for Hunt Number 2035 (Little Naches B) was reduced from 400 to 15.

8. The permit number for Hunt Number 2038 (Nile) was reduced from 150 to 75.

9. The permit number for Hunt Number 2039 (Bumping) was reduced from 600 to 300.

10. The permit number for Hunt Number 2040 (Bethel A) was reduced from 100 to 50.

NEW SECTION

WAC 232-28-251 1995-96 Elk permit quotas

MODERN FIREARM PERMIT HUNTS (MUZZLELOADERS MAY APPLY)

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
2001	Aladdin	Oct. 28-Nov. 5	BC or BM	GMU 111	Antlerless Only	30
2002	Selkirk	Oct. 28-Nov. 5	BC or BM	GMU 113	Antlerless Only	35
2003	Mount Spokane	Oct. 28-Nov. 5	BC or BM	GMU 124	Antlerless Only	30
2004	Mica, Cheney	Oct. 28-Nov. 5	BC or BM	GMUs 127, 130	Antlerless Only	250
2005	Blue Creek	Oct. 25-Nov. 5	BC or BM	GMU 154	Any Bull	10
2006	Watershed	Oct. 28-Nov. 5	BC or BM	GMU 157	3 Pt. Min. or Antlerless	100
2007	Touchet	Oct. 25-Nov. 5	BC or BM	GMU 160	Any Bull	10
2008	Eckler	Oct. 25-Nov. 5	BC or BM	GMU 161	Any Bull	10
2009	Tucannon	Oct. 25-Nov. 5	BC or BM	GMU 166	Any Bull	10
2010	Wenaha A	Oct. 1-10	BC or BM	GMU 169	Any Bull	5
2011	Wenaha B	Oct. 25-Nov. 5	BC or BM	GMU 169	Any Bull	11
2012	Mountain View A	Oct. 25-Nov. 5	BC or BM	GMU 172	Any Bull	10
2013	Couse	Oct. 25-Nov. 5	BC or BM	GMU 181	Any Bull	3
2014	Joseph, Black Butte	Oct. 25-Nov. 5	BC or BM	GMU 184, 185	Any Bull	1
2015	Chelan A	Oct. 15-Nov. 1	CC or CM	GMUs 300, 301, 304, 306, 308, 316	Antlerless Only	20
2016	Chelan B	Oct. 15-Nov. 1	CC or CM	GMUs 300, 301, 304, 306, 308, 316	Any Bull	10
2017	Naneum A	Oct. 23-25	CC or CM	GMU 328	Antlerless Only	150
2018	Naneum B	Oct. 26-Nov. 1	CC or CM	GMU 328	Any Bull	40
2019	Malaga A	Sept. 1-Oct. 6	CC or CM	Elk Area 032	Antlerless Only	150
2020	Malaga B	Nov. 2-Jan. 15, 1996	CC or CM	Elk Area 032	Antlerless Only	150
2021	Peshastin A	Sept. 1-Oct. 6	CC or CM	Elk Area 033	Either Sex	150
2022	Peshastin B	Nov. 2-Jan. 15, 1996	CC or CM	Elk Area 033	Antlerless Only	150
2023	Quilomene A	Oct. 23-25	CC or CM	GMU 329	Antlerless Only	225
2024	Quilomene B	Oct. 26-Nov. 1	CC or CM	GMU 329	Any Bull	30
2025	West Bar A	Oct. 23	CC or CM	GMU 330	Antlerless Only	25
2026	West Bar B	Oct. 24	CC or CM	GMU 330	Antlerless Only	25
2027	West Bar C	Oct. 25	CC or CM	GMU 330	Antlerless Only	25
2028	Swauk	Oct. 25-Nov. 13	CC or CM YC or YM	GMUs 302, 335	Any Bull	20
2029	Taneum A	Nov. 1-4	YC or YM	GMU 336	Antlerless Only	200
2030	Manastash A	Nov. 1-4	YC or YM	GMU 340	Antlerless Only	200
2031	Shushuskin A	Nov. 23-Dec. 15	YC or YM	Elk Area 031	Antlerless Only	125
2032	Umtanum A	Nov. 1-4	YC or YM	GMU 342	Antlerless Only	200
2033	Peaches Ridge	Oct. 25-Nov. 13	YC or YM	GMUs 336, 346	Any Bull	40
2034	Little Naches A	Nov. 1-4	YC or YM	GMU 346	Antlerless Only	200
2035	Little Naches B	Oct. 1-Nov. 13	YC or YM	GMU 346	Any Bull	15
2036	Observatory	Nov. 5-13	YC or YM	GMUs 340, 342	Any Bull	40
2037	Goose Prairie A	Oct. 25-Nov. 13	YC or YM	GMUs 352, 356	Any Bull	40
2038	Nile	Nov. 1-4	YC or YM	GMU 352	Antlerless Only	75
2039	Bumping	Nov. 1-4	YC or YM	GMU 356	Antlerless Only	300
2040	Bethel A	Nov. 1-4	YC or YM	GMU 360	Antlerless Only	50
2041	Bethel B	Nov. 5-13	YC or YM	GMU 360	Any Bull	40
2042	Rimrock A	Nov. 1-4	YC or YM	GMU 364	Antlerless Only	300
2043	Rimrock B	Oct. 25-Nov. 13	YC or YM	GMU 364	Any Bull	10
2044	Cowiche A	Nov. 1-4	YC or YM	GMU 368	Antlerless Only	150
2045	Cowiche B	Nov. 5-13	YC or YM	GMU 368	Any Bull	10
2046	White River A	Nov. 1-13	WC or WM	GMU 472	Any Bull	25
2047	Green River Cow A	Nov. 11-15	WC or WM	GMU 485	Antlerless Only	38

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2048	Green River Bull	Nov. 11-15	WC or WM	GMU 485	3 Pt. Bull Min. or Antlerless	12
2049	Green River Spike	Nov. 11-15	WC or WM	GMU 485	Spike or Antlerless	2
2050	Lincoln	Nov. 14-19	WC or WM	GMU 501	Antlerless Only	25
2051	Willapa Hills	Nov. 14-19	WC or WM	GMU 506	Antlerless Only	50
2052	Packwood	Nov. 14-19	WC or WM	GMU 516	Antlerless Only	50
2053	Margaret Cow	Nov. 14-19	WC or WM	GMU 524	Antlerless Only	30
2054	Margaret Bull	Nov. 1-13	WC or WM	GMU 524	3 Pt. Bull Min.	30
2055	Ryderwood	Nov. 14-19	WC or WM	GMU 530	Antlerless Only	75
2056	Toutle Cow	Nov. 14-19	WC or WM	GMU 556	Antlerless Only	75
2057	Toutle Bull	Nov. 1-13	WC or WM	GMU 556	3 Pt. Bull Min.	200
2058	Marble	Nov. 14-19	WC or WM	GMU 558	Antlerless Only	60
2059	Lewis River	Nov. 14-19	WC or WM	GMU 560	Antlerless Only	75
2060	Siouxon	Nov. 14-19	WC or WM	GMU 572	Antlerless Only	50
2061	Dickey Bull A	Oct. 1-13	WC or WM	GMU 602	3 Pt. Bull Min.	10
2062	Dickey Bull B	Nov. 1-13	WC or WM	GMU 602	3 Pt. Bull Min.	75
2063	Goodman	Nov. 14-19	WC or WM	GMU 612	Antlerless Only	30
2064	Matheny	Nov. 14-19	WC or WM	GMU 618	Antlerless Only	40
2065	Quinault Ridge	Oct. 1-13	WC or WM	GMU 638	3 Pt. Bull Min.	5
2066	Wynoochee	Nov. 14-19	WC or WM	GMU 648	Antlerless Only	50
2067	Palix	Nov. 14-19	WC or WM	GMU 669	Antlerless Only	30
2068	Nemah	Nov. 14-19	WC or WM	GMU 678	Antlerless Only	50
2069	Backbone A	Nov. 23-Dec. 13	WC or WM	Elk Area 025	Antlerless Only	35
2070	Backbone B	Nov. 23-Dec. 13	WC or WM	Elk Area 025	Any Bull	20
2071	Curtis	Dec. 20-31	WC or WM	Elk Area 050	Antlerless Only	50
2072	Boistfort A	Jan. 1-15, 1996	WC or WM	Elk Area 054	Antlerless Only	50
2073	East Valley	Jan. 1-15, 1996	WC or WM	Elk Area 055	Antlerless Only	25
2074	Carlton	Oct. 1-13	WC or WM	Elk Area 057	3 Pt. Bull Min.	5
2075	West Goat Rocks	Oct. 1-13	WC or WM	Elk Area 058	3 Pt. Bull Min.	5
2076	Mt. Adams	Oct. 1-13	WC or WM	Elk Area 059	3 Pt. Bull Min.	5
2077	South Willapa	Jan. 1-15, 1996	WC or WM	Elk Area 067	Antlerless Only	2

*Outside of Umatilla National Forest.

ADVANCED HUNTER EDUCATION (AHE) PROGRAM

Hunt Number	Hunt Name	Permit Season	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
2078	Shushuskin B	Dec. 16-30	Elk Area 031	Antlerless Only	20
2079	Margaret	Oct. 1-12	GMU 524	3 Pt. Min. or Antlerless	10
2080	Skookumchuck	Oct. 7-12	GMU 667	Either Sex	5
2081	South Bank A	Sept. 16-20	Elk Area 062	Antlerless Only	3
2082	South Bank B	Sept. 23-27	Elk Area 062	Antlerless Only	3
2083	South Bank C	Dec. 16-20	Elk Area 062	Antlerless Only	3
2084	South Bank D	Jan. 6-10, 1996	Elk Area 062	Antlerless Only	3
2085	South Bank E	Jan. 20-24, 1996	Elk Area 062	Antlerless Only	3

ARCHERY ONLY

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
2086	Blue Mtns. West	Sept. 1-14	BA	GMUs 154, 160, 161, 166, 169	Any Bull	16
2087	Blue Mtns. East	Sept. 1-14	BA	GMUs 178, 181, 184, 185	Any Bull	16
2088	Colockum	Sept. 1-14	CA	GMUs 328, 329	Either Sex	130
2089	Robinson	Sept. 1-14	YA	GMUs 336, 340	Either Sex	145
2090	Taneum B	Nov. 23-Dec. 8	YA	GMU 336	Either Sex	25
2091	Goose Prairie B	Sept. 1-14	YA	GMUs 352, 356	Either Sex	75
2092	Divide	Nov. 23-Dec. 8	YA	Bow Area 806, 807	Either Sex	35
2093	Cottonwood	Sept. 1-14	YA	GMUs 364, 366, 368	Either Sex	90
2094	White River B	Sept. 1-14	WA	GMU 472	Either Sex	10

PRIVATE LANDS WILDLIFE MANAGEMENT PERMIT OPPORTUNITIES

CHAMPION'S KAPOWSIN TREE FARM

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
2095	Kapowsin Bull A	*	WA, WC, WM	PLWMA 401A	Any Bull	2
2096	Kapowsin Bull B	*	WA, WC, WM	PLWMA 401B, 401C	Any Bull	2

*Permit season for archery tag holders Sept. 1-14; modern firearm Nov. 1-13; and muzzleloader Nov. 22-Dec. 5.

CHAMPION BRANCHED ANTLER BULL PERMITS

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
*	Champion Bull	Sept. 16-27	Any Elk Tag	PLWMA 401	Branched Bull Only	4

MUZZLELOADER ELK PERMITS

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
2097	Kapowsin North	Nov. 22-Dec. 5	WM	PLWMA 401A	Antlerless Only	10
2098	Kapowsin Central	Nov. 22-Dec. 5	WM	PLWMA 401B	Antlerless Only	8
2099	Kapowsin South	Nov. 22-Dec. 5	WM	PLWMA 401C	Antlerless Only	8

SPECIAL HUNTS FOR DISABLED, BLIND OR VISUALLY IMPAIRED

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
3001	Naches D	Oct. 1-13	YC or YM	GMU 346	Antlerless Only	10
3002	Quilomene C	Nov. 1-13	CC or CM	GMU 329	Antlerless Only	10
3003	Manastash B	Nov. 1-13	YC or YM	GMU 340	Antlerless Only	10
3004	Green River Cow B	Nov. 11-15	WC or WM	GMU 485	Antlerless Only	5
3005	Centralia Mine A	Nov. 18-19	Any Elk Tag	Portion of GMU 667*	Antlerless Only	4
3006	Centralia Mine B	Nov. 25-26	Any Elk Tag	Portion of GMU 667*	Antlerless Only	4
3007	Centralia Mine C	Dec. 2-3	Any Elk Tag	Portion of GMU 667*	Either Sex	4

*Successful applicants will be mailed a map of the hunt boundary.

MUZZLELOADER ONLY

Hunt Number	Hunt Name	Permit Season	Elk Tag Prefix	Permit Hunt Boundary Description	Special Restrictions	1995-96 Permits
4001	Mountain View B	Oct. 5-11	BM	GMU 172	Any Bull	20
4002	Mission	Oct. 5-11	CM	GMU 314	Any Bull	25
4003	Cle Elum A	Oct. 1-12	YM	ML Area 910	Either Sex	30
4004	Cle Elum B	Nov. 16-Dec. 8	YM	ML Area 910	Either Sex	30
4005	Umtanum B	Oct. 8-12	YM	GMU 342	Either Sex	30
4006	Cowiche C	Oct. 8-12	YM	GMU 368	Either Sex	40
4007	Stella	Nov. 22-Dec. 12	WM	GMU 504	Either Sex	75
4008	Boistfort B	Jan. 16-31, 1996	WM	Elk Area 054	Antlerless Only	50
4009	Yale	Nov. 22-Dec. 12	WM	GMU 554	Either Sex	75
4010	Toledo	Jan. 2-16, 1996	WM	Elk Area 029	Antlerless Only	150
4011	Chinook	Jan. 16-Feb. 15, 1996	WM	Elk Area 069	Antlerless Only	2
4012	North River	Nov. 18-Dec. 6	WM	GMU 658	Antlerless Only	20
4013	Elwha	Dec. 15-Jan. 15, 1996	WM	ML Area 962	Antlerless Only	5
4014	South Elma	Oct. 1-13	WM	Elk Area 063	Antlerless Only	50

PERMANENT

WSR 95-11-042
PERMANENT RULES
POLLUTION LIABILITY
INSURANCE AGENCY
[Order 95-02—Filed May 10, 1995, 1:50 p.m.]

Date of Adoption: May 10, 1995.

Purpose: Provides for the program to cover the costs incurred in determining an applicants' eligibility for pollution liability insurance.

Citation of Existing Rules Affected by this Order: Amending WAC 374-50-040, 374-50-050, 374-50-060, and 374-50-080.

Statutory Authority for Adoption: RCW 70.148.040.

Pursuant to notice filed as WSR 95-08-040 on March 31, 1995.

Changes Other than Editing from Proposed to Adopted Version: The rule allows the agency to provide reimbursement for soil testing up to a maximum of $2,500 per site, regardless of the applicant's financial situation.

Effective Date of Rule: Thirty-one days after filing.

May 10, 1995
James M. Sims
Director

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-010 Authority and purpose. This chapter is promulgated under the authority of RCW 70.148.040. Its purpose is to implement those provisions of RCW 70.148.035 relating to covering ((~~insurers'~~)) costs ((~~of~~)) associated with determining ((~~the eligibility of~~)) whether an applicant((~~s~~)) for pollution liability insurance under the pollution liability insurance program meets the underwriting standards of the insurer and the agency.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-020 Definitions. Unless the context requires otherwise, the following definitions shall apply:

(1) "Agency" means the pollution liability insurance agency created by chapter 70.148 RCW.

(2) "Director" means the director of the pollution liability insurance agency.

(3) "Insurer" means a commercial property and casualty insurance company ((~~or risk retention group~~)) with whom the agency has a contract to provide reinsurance.

(4) "Insurance eligibility assessment" means those actions required to determine the eligibility of an owner or operator for pollution liability insurance coverage by an insurer including, but not limited to, evaluation of inventory control records, tightness testing of tanks and connected piping, soil and/or ground water sampling, and other physical or chemical tests.

(5) "Operator" means a person in control of, or having responsibility for, the daily operation of a regulated petroleum ((~~underground~~)) storage tank.

(6) "Owner" means a person who owns a regulated petroleum ((~~underground~~)) storage tank.

(7) "Person" means an individual, trust, firm, joint stock company, corporation (including government corporations), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the federal government or any department or agency of the federal government, or an Indian tribe or agency or entity of an Indian tribe.

(8) "Pollution liability insurance program" means the reinsurance program administered by the pollution liability insurance agency.

(9) "Substantial economic impact" means elimination or substantial reduction of the availability of petroleum products or other goods or services in which petroleum products are a necessary part of the production or distribution process within a community or an area resulting from closure of one or more regulated petroleum ((~~underground~~)) storage tanks.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-030 Eligibility for reimbursement program—Who may apply. Any ((~~person who~~)) owner or operator that is required to demonstrate financial responsibility for one or more regulated petroleum ((~~underground~~)) storage tanks under 40 C.F.R. Parts 280.90, 280.91, and 280.92 (the federal underground storage tank regulations), chapter 90.76 RCW, or other applicable laws, ordinances, or rules ((~~and who~~)) that satisfies the criteria set forth in WAC 374-50-040 may apply for assistance in ((~~covering an insurer's~~)) assisting with the costs of an insurance eligibility assessment under the program established by this chapter, except for:

(1) Persons whose compliance dates under 40 C.F.R. Part 280.91 as now or hereafter amended, chapter 90.76 RCW or other laws, ordinances, or rules precede the effective date of this chapter;

(2) The federal government or entities of the state of Washington;

(3) The state of Washington or entities of the state of Washington;

(4) Indian tribes or entities of Indian tribes; and

(5) Counties, cities, towns, or special purpose districts including, but not limited to, fire districts, hospital districts, library districts, metropolitan park districts, park and recreation districts, school districts, or entities of such governmental units((~~; and~~

~~(6) Owners or operators of farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes~~)).

NEW SECTION

WAC 374-50-035 Insurance eligibility assessment. (1) Insurers may establish eligibility assessment underwriting requirements to determine the eligibility of certain regulated petroleum storage tanks for coverage under their pollution liability insurance policies. To limit the threat to human health and the environment, and to determine the risk associated with insurance coverage of certain regulated petroleum storage tanks, such eligibility assessment requirements are established. Eligibility assessment requirements may include: Inventory records evaluation, statistical inventory reconciliation, tank tightness testing, line tightness testing, soil and/or ground water sampling.

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(2) Insurance eligibility assessment requirements may be established by each insurer with which the agency has a reinsurance contract, independent of other insurers. Requirements may not necessarily be the same for each insurer under the pollution liability insurance program.

(3) Insurance eligibility assessment requirements may be in addition to leak detection requirements established by the United States Environmental Protection Agency, department of ecology or local government authorities.

(4) The agency may establish insurance eligibility assessment requirements to determine the eligibility of regulated petroleum storage tanks under the pollution liability insurance program. Such requirements are established to limit the threat to human health and the environment and to determine the risk associated with insurance coverage of those tanks.

(5) If soil samples are required as an insurance eligibility assessment measure and if reimbursement is requested in accordance with WAC 374-50-050, soil sampling and analysis must be conducted in accordance with the current protocol published by the agency. The protocol is not a part of this rule, but is available from the agency.

(a) Soil samples are required only at the time of binding coverage and inception of the policy. If coverage of such a site has been bound prior to the effective date of this rule, soil samples must be taken prior to renewal of the policy.

(b) A specific protocol for soil sampling and analysis published by the agency is not a part of this rule.

PERMANENT

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-040 Eligibility criteria. (1) ((~~Persons~~)) Owners or operators eligible to apply for participation in the program established by this chapter must satisfy the following criteria:

(a) The applicant is eligible under WAC 374-50-030;

(b) The applicant is the owner or operator of one or more regulated petroleum ((~~underground~~)) storage tanks located in the state of Washington;

(c) The applicant's tank or tanks are registered with the department of ecology and all required fees due under chapter 90.76 RCW, local ordinances if applicable, and any other applicable laws, ordinances, or fees have been paid;

(d) The applicant is in compliance with all applicable technical and operating requirements of 40 C.F.R. Part 280, Subparts B, C, and D, applicable requirements of chapter 90.76 RCW, and rules adopted thereunder, and other applicable laws, ordinances, or rules effective on the date of application;

(e) The applicant is responsible for demonstrating financial responsibility for the tank or tanks under 40 C.F.R. Parts 280.90, 280.91, and 280.92, chapter 90.76 RCW or other laws, ordinances, or rules;

(f) The applicant has applied for pollution liability insurance from an insurer with whom the agency has a contract to provide reinsurance;

(g) The applicant ((~~affirms that he or she intends to~~)) purchases such insurance coverage if the tank, tanks, site, or sites to be insured satisfy the underwriting requirements of the insurer; and

(h) The applicant's net worth is five hundred thousand dollars or less, except as provided for in subsection ((~~(2)~~)) (3) of this section.

(2) Owners or operators of regulated petroleum storage tanks required to provide soil samples are not required to satisfy the net worth requirement of subsection (1)(h) of this section.

(3) Additional consideration may be given to applications for reimbursement of insurance eligibility assessment costs when:

(a) The applicant fails to satisfy the net worth criterion in subsection (1)(h) of this section, but can demonstrate through income tax returns or other acceptable means that such costs would result in unfair economic hardship; or

(b) The applicant demonstrates that closure of the regulated petroleum ((~~underground~~)) storage tank or tanks would impose a substantial economic impact upon the community or area in which it is located.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-050 Reimbursement limits. (1) ((~~Insurers~~)) Approved owners or operators will be reimbursed for insurance eligibility assessment costs ((~~incurred on behalf of persons whose applications for participation in the program~~)) established by this chapter ((~~are approved~~)) according to the following schedule:

(a) For costs incurred ((~~on behalf of persons~~)) by owners or operators with net worth of two hundred fifty thousand dollars or less — seventy-five percent of the first three thousand five hundred dollars of eligible costs up to a reimbursement limit of two thousand six hundred twenty-five dollars;

(b) For costs incurred ((~~on behalf of persons~~)) by owners or operators with net worth greater than two hundred fifty thousand dollars, but less than or equal to five hundred thousand dollars — fifty percent of the first three thousand five hundred dollars of eligible costs up to a reimbursement limit of one thousand seven hundred fifty dollars;

(c) For costs incurred ((~~on behalf of persons~~)) by owners or operators with net worth greater than five hundred thousand dollars whose applications for participation in this program have been accepted on the basis of WAC 374-50-040((~~(2)~~)) (3) — twenty-five percent of the first three thousand five hundred dollars of eligible costs up to a reimbursement limit of eight hundred seventy-five dollars.

(2) Within the limits of subsection (1) of this section, reimbursement for the following specific insurance eligibility assessment costs will be made at the indicated percentages of the following maximum amounts:

(a) Inventory control records evaluation — one hundred fifty dollars per site;

(b) Tank tightness testing — five hundred dollars per tank;

(c) Line tightness testing — one hundred fifty dollars per product line; and

(d) ((~~Soil or~~)) Ground water sampling — ((~~two~~)) three hundred fifty dollars per sample.

(3) Soil sampling — one hundred percent of the cost to a maximum amount of two thousand five hundred dollars per site.

(4) It is the intent of the reimbursement program established by this chapter to assist as many owners or operators of regulated petroleum ((~~underground~~)) storage tanks with limited economic resources as possible. Therefore, not more than one application for participation in the program established by this chapter will be approved for each ((~~such natural person or entity~~)) owner or operator, regardless of the number of ((~~underground~~)) sites and regulated petroleum storage tanks owned or operated, whether directly or indirectly. This restriction, however, does not apply to soil sampling.

(5) Reimbursement will be made to the person or firm performing the insurance eligibility assessment services.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-060 Program schedule. (1) The program established by this chapter will ((~~proceed according to the following schedule: Applications will be accepted for those owners and operators with twelve or fewer tanks beginning on the effective date of chapter 374-50 WAC until the official financial responsibility compliance date established by the United States Environmental Protection Agency or the Washington department of ecology, whichever date is first~~)) expire December 31, 1996.

(2) Approval of applications and payments are contingent upon the availability of revenue. The director reserves the right to order termination ((~~of the program~~)) at any time that reimbursement commitments or payments exhaust the revenue available for the ((~~reimbursement~~)) insurance eligibility assessment program.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-070 Application procedure. (1) Information concerning the insurance eligibility assessment cost reimbursement program and forms or materials necessary for application may be obtained from:

Pollution Liability Insurance Agency
PO BOX 40930
1015-10th Avenue S.E.
Olympia, WA 98504-0930

(2) Application for participation in the program established by this chapter requires preparation and submission of the following: A completed asset and liability statement on a form provided by the agency and a reimbursement agreement.

(3) Applicants for soil sampling are only required to submit a general information application form and a reimbursement agreement provided by the agency.

(4) The agency will act upon applications as expeditiously as feasible unless additional information is required. If this is the case, the applicant will be notified and the application will be acted upon as expeditiously as feasible after receipt of the ((~~required~~)) additional information required by the agency.

((~~(4)~~)) (5) Applicants will be notified of agency approval or disapproval by return mail. ((~~Persons~~)) Owners or operators whose applications are disapproved will be informed of the reason for such action.

((~~(5)~~)) (6) An applicant ((~~who disagrees with the disapproval of his or her application~~)) whose application has been disapproved may request review of the agency decision by the director. The applicant will be notified by mail of the director's decision as expeditiously as feasible after receipt by the agency of the request for review unless additional time is required. If additional time is required in order for the review to be completed, the applicant will be notified by mail.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-080 Payment of reimbursement. (1) Reimbursement ((~~of insurers~~)) for approved insurance eligibility assessment costs incurred on behalf of applicants accepted under the program established by this chapter will be made as expeditiously as feasible after receipt by the agency of the following information:

(a) ((~~A copy of the notification of agency approval of the applicant's application for the program established by this chapter;~~

~~(b)~~)) A copy of the invoice(s) from the person or firm performing the insurance eligibility assessment services with a breakdown showing the cost of each test or service performed separately ((~~and an indication thereon, or by separate receipt, that payment in full has been made by the insurer~~));

(b) For soil sampling, a copy of the field notes which include the name and address of the site; a sketch indicating boring locations; depth of each boring; ground water level encountered; type of instrument used for sample analysis and instrument calibration; ambient weather conditions; soil classification along the depth of each boring; depth of soil/water interface; results of screening of cuttings that exceed background levels; or any visual observations that indicate the presence of petroleum; readings from headspace analysis and confirmatory lab analysis results.

(c) A copy of the face sheet of an issued pollution liability insurance policy if the applicant's tank, tanks, site, or sites have satisfied the insurer's underwriting requirements.

(2) ((~~Persons~~)) Owners or operators on whose behalf reimbursement under the program created by this chapter has been made are required to maintain ((~~their~~)) pollution liability insurance coverage in force for at least one year. If insurance coverage is not maintained for this period, the ((~~person~~)) owner or operator is required to return a pro rata share of the reimbursement to the agency, with the share being that fraction of one year for which insurance coverage was not maintained in force.

(3) ((~~Persons~~)) Owners or operators who have applied for insurance in good faith, but whose tanks, ((~~tanks, site,~~)) or sites fail to satisfy the insurer's underwriting requirements and are therefore denied coverage will not be required to return reimbursement payments.

AMENDATORY SECTION (Amending Order 92-02, filed 4/17/92, effective 5/18/92)

WAC 374-50-090 Other restrictions. (1) ((~~Persons~~)) Owners or operators whose applications for the program established by this chapter are accepted will be responsible

PERMANENT

for the cost of all fuels or products required for tank or connected piping tightness testing.

(2) All testing and sampling must be performed by ((~~persons who are registered with the Washington department of ecology~~)) UST supervisors and UST site assessors certified by the International Fire Code Institute.

WSR 95-11-043
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed May 10, 1995, 3:00 p.m.]

Date of Adoption: May 10, 1995.

Purpose: Adopt regulations for issuance of special collegiate license plates. Repeal regulations pertaining to license plate emblems depicting institutions of higher education.

Citation of Existing Rules Affected by this Order: Amending WAC 308-96A-550 and 308-96A-560.

Statutory Authority for Adoption: RCW 46.16.301, 46.16.324, and 46.01.110.

Pursuant to notice filed as WSR 95-07-136 on March 22, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 4, 1995
Kathy Baros Friedt
Director

AMENDATORY SECTION (Amending WSR 91-03-091, filed 1/18/91, effective 2/18/91)

WAC 308-96A-550 Vehicle special collegiate license plates ((~~emblems—Higher education institutions~~)). (1) The department shall approve ((~~a petition~~)) an application for special ((~~vehicle~~)) collegiate license plate ((~~emblems~~)) series pursuant to RCW 46.16.301 (1)(d) from an institution of higher education ((~~as defined in RCW 28B.10.016~~)) after determining the following criteria is satisfied:

(a) ((~~It is reasonable to expect that a minimum of five thousand emblems in the approved configuration will be ordered by the institution within the first two years.~~

~~(b) The institution will offer emblems for purchase to any vehicle owners who are attending, have attended, or have made a contribution to the institution.~~

~~(c) The general public will receive benefit from display of the emblems.~~

~~(d) The emblem lettering and color scheme is compatible with the basic license plate design.~~

~~(e) The emblem has state-wide appeal and is not limited to a particular geographic area.~~

~~(f) The institution will be the sole source for procuring the emblems from the department. Accountability of the emblems and all fees derived from the sale thereof, after delivery by the department is the responsibility of the institution.~~

~~(g) When ownership in a vehicle displaying a vehicle license plate emblem is transferred, the emblem is also transferred. The new owner may remove or display the emblem at the owner's option.~~)) The special collegiate license plate lettering and color scheme is compatible with the basic license plate design. The plates shall consist of numbers, letters, or figures or any combination thereof not exceeding seven positions that do not conflict with existing license plates. The plate design must provide at least four positions to accommodate serial numbering. A license plate shall not be approved that may carry connotations offensive to good taste or decency, which may be misleading, vulgar in nature, a racial, ethnic lifestyle or gender slur, related to illegal activities or substances, blasphemous, contrary to the department's mission to promote highway safety, or a duplication of other license plates provided in chapter 46.16 RCW.

(b) The special collegiate license plate is designed so that it can be readily recognized by law enforcement personnel as an official Washington state issued license plate. A collegiate license plate design may not be issued in combination with any other license plate configuration or in lieu of any other special, personalized or exempt license plate.

(c) The special collegiate license plate may be issued to all applicants regardless of the applicant's age, gender, religion, race, color, creed, marital status, national origin, disability, or affiliation with an institution of higher education.

(2) The institution shall provide a design including color and dimension specifications of the requested ((~~emblem~~)) special collegiate license plate series requested with their application. The department shall approve or disapprove the design based on compatibility with the basic license plate's design. ((~~An emblem~~)) A collegiate license plate series shall not be approved that may carry connotations offensive to good taste or decency or which may be misleading.

(3) The department ((~~shall collect a fee from the institution in~~)) may deduct an amount from the collegiate license plate fee sufficient to offset the department's plate production costs ((~~associated with the institution's emblem~~)). The department's production costs are the difference between the costs to purchase a standard set of passenger vehicle license plates and the costs to purchase a set of collegiate license plates. All such amounts deducted shall be deposited with the state treasurer and credited to the motor vehicle fund.

(4) ((~~The original order of vehicle license plate emblems for each approved design shall be not less than three thousand emblems. Reorder of each approved design shall be not less than one thousand emblems.~~)) When ownership of a vehicle, issued collegiate license plates, is sold, traded, or otherwise transferred, the owner may relinquish the plates to the new vehicle owner or remove the plates from the vehicle for transfer to a replacement vehicle. If the plates are removed from the vehicle a transfer fee to another vehicle shall be charged as provided in RCW 46.16.316(1). If the registration expiration date for the new vehicle exceeds the old vehicle registration expiration date, an abated fee for the collegiate plate shall be charged at the rate of one-twelfth of the annual collegiate plate fee for each exceeding month and partial month. If the new registration expiration date is sooner than the old expiration date, a refund shall not be made for the unexpended registration period.

(5) Upon the loss, defacement, or destruction of one or both collegiate license plates the owner shall make application for new collegiate or other license plate and pay the fees pursuant to RCW 46.16.270. New collegiate license plates

shall be issued bearing the next available license plate number.

AMENDATORY SECTION (Amending WSR 93-14-083, filed 6/30/93, effective 7/31/93)

WAC 308-96A-560 Special vehicle license plates—Criteria. The department may approve applications for special vehicle license plates ((~~under~~)) pursuant to RCW 46.16.301 (1)(a), (b), or (c) after determining that all of the following criteria is satisfied:

(a) It is reasonable to expect a minimum of one thousand special license plates in the approved configuration will be purchased by vehicle owners satisfying the qualifications set forth in the approved application.

(b) The applicant organization is a local chapter or equivalent of a nationally recognized organization.

(c) The special license plate is designed so that it can be readily recognized by law enforcement personnel as an official Washington state issued license plate.

(d) Qualifications for the special license plate do not discriminate between age, sex, religion, gender, race, color, creed, marital status, disability, or national origin. Qualifications may not include being a member of the applicant organization. Purchasers of plates that identify members of professions that are related to public safety, health, and/or welfare may require proof of professional standing.

(e) The special license plate lettering and color scheme is compatible with the basic license plate design. The plates shall consist of numbers, letters, or figures or any combination thereof not exceeding seven positions that do not conflict with existing license plates. The plate design must provide at least four positions to accommodate serial numbering. The plate may not advertise a product or service. A license plate shall not be approved that may carry connotations offensive to good taste or decency which may be misleading, vulgar in nature, a racial, ethnic lifestyle or gender slur, related to illegal activities or substances, blasphemous, contrary to the department's mission to promote highway safety, or a duplicate of other license plates provided in chapter 46.16 RCW.

(f) The applicant organization is recognized as a nonprofit entity by Washington state law and the Internal Revenue Service.

(g) The special license plate has state-wide appeal and is not limited to a particular geographic area.

(h) The applicant organization will not use the special license plate to raise funds or as a qualification ((~~to~~)) for gaining or retaining membership in an organization.

WSR 95-11-045
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3848—Filed May 10, 1995, 3:20 p.m.]

Date of Adoption: May 10, 1995.

Purpose: Update eligibility income standards to comply with the April 1, 1995, increase in the federal poverty level. Implements a state plan revision allowing federal, state or local taxes, up to the medically needy income level, paid or owed by the client to reduce participation in cost of nursing facility.

Citation of Existing Rules Affected by this Order: Amending WAC 388-508-0805 Pregnant woman—Income standards and 388-513-1380 Institutional—Participation.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 95-08-045 on March 31, 1995.

Changes Other than Editing from Proposed to Adopted Version: Under WAC 388-513-1380(5), the wording is amended at beginning of (a); at the beginning of (b), e.g., "Consider the standard shelter allocation to be . . ."; and (c) language is added.

RCW 34.05.340(3) "If the agency, without filing a supplemental notice under subsection (1) of this section, adopts a rule that varies in content from the proposed rule, the general subject matter of the adopted rule must remain the same as the proposed rule. The agency shall briefly describe any changes, other than editing changes, and the principal reasons for adopting the changes. The brief description shall be filed with the code reviser together with the order of adoption for publication in the state register . . ."

Changes in content from the proposed rule and the adopted version are as follows:

WAC 388-513-1380

CURRENTLY READS:

(5) For the purposes of this section, the department shall ensure excess shelter expenses:

(a) Means the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative;

(v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Do not exceed three hundred seventy-seven dollars, effective April 1, 1995.

REVISE TO:

(5) For the purposes of this section, the department shall:

(a) Determine shelter expenses to be the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative;

(v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) Consider the standard shelter allocation to be three hundred seventy-seven dollars, effective April 1, 1995.

(c) Consider as "excess shelter expenses" an amount equal to the actual expenses under subsection (5)(a) of this section less the standard shelter allocation under subsection (5)(b) of this section.

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The amended language reflects the department's original intent. The current language limits the client to an excess shelter expense of $377.00. The excess shelter expense is to reflect the amount exceeding $377.

Effective Date of Rule: Thirty-one days after filing.

May 10, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3832, filed 2/8/95, effective 3/11/95)

WAC 388-513-1380 Institutional—Participation. (1) In reducing payment to the institution, the department shall consider the institutionalized client's:

(a) Income under WAC 388-513-1330 (3)(a), (b), (c), and (d); and

(b) Resources under WAC 388-513-1350, 388-513-1360, and 388-513-1365.

(2) In reducing payment to the institution, the department shall consider the eligible institutionalized client's excess resources available to meet the cost of care after the following allocations:

(a) Health insurance and Medicare premiums, deductions, and co-insurance not paid by a third party; and

(b) Noncovered medical bills which are the liability of the client and not paid by a third party.

(3) The department shall not use allocations used to reduce excess resources under subsection (2) of this section to reduce income under subsection (4) of this section.

(4) The department shall deduct the following amounts, in the following order, from the institutionalized client's total income, including amounts disregarded in determining eligibility:

(a) Specified personal needs allowance as follows:

(i) One hundred sixty dollars for a veteran living in a Medicaid-certified state veteran's home nursing facility;

(ii) Ninety dollars for a single veteran receiving an improved veteran's pension; or

(iii) Forty-one dollars and sixty-two cents for all other clients in medical institutions.

(b) ((~~Unearned income which~~)) Federal, state, or local income taxes:

(i) ((~~Is~~)) Mandatorily withheld from earned or unearned income for income tax purposes before receipt by the client; ((~~and~~))

(ii) Not covered by withholding, but are owed or have been paid by the client; and

(iii) Does not exceed the one-person medically needy income level less the client's personal needs allowance.

(c) Wages not to exceed the one-person medically needy income level less the client's personal needs allowance for a client who:

(i) Is SSI-related; and

(ii) Receives the wages as part of a department-approved training or rehabilitative program designed to prepare the client for a less restrictive placement. When determining this deduction, the department shall:

(A) Not allow a deduction for employment expenses; and

(B) Apply the client's wages not deducted under this subsection to the client's cost of care.

(d) An amount an SSI or AFDC client in a medical facility receives as a cash assistance payment sufficient to bring the client's income up to the personal needs allowance.

(e) A monthly needs allowance for the community spouse not to exceed one thousand eight hundred seventy-one dollars, unless specified in subsection (6) of this section. The department shall ensure the monthly needs allowance is:

(i) An amount added to the community spouse's gross income to provide a total community spouse's income of one thousand two hundred fifty-eight dollars; and

(ii) Excess shelter expenses as specified under subsection (5) of this section.

(f) An amount for the maintenance needs of each dependent family member residing with the community spouse:

(i) Equal to one-third of the amount one thousand two hundred ((~~thirty~~)) fifty-four dollars exceeds the family member's income. Child support received from an absent parent is the child's income.

(ii) **"Family member"** means a:

(A) Dependent or minor child;

(B) Dependent parent; or

(C) Dependent sibling of the institutionalized or community spouse.

(g) When an institutional client does not have a community spouse, an amount for the maintenance needs of family members residing in the client's home equal to the medically needy income level for the number of legal dependents in the home less the income of the dependents.

(h) Amounts for incurred medical expenses not subject to third-party payment including, but not limited to:

(i) Health insurance premiums, coinsurance, or deductible charges; and

(ii) Necessary medical care recognized under state law, but not covered under Medicaid.

(i) Maintenance of the home of a single person or couple:

(i) Up to one hundred eighty dollars per month;

(ii) Limited to a six-month period; and

(iii) When a physician has certified that the client is likely to return to the home within the six-month period; and

(iv) Social service staff shall document initial need for the income exemption and review the person's circumstances after ninety days.

(5) For the purposes of this section, the department shall ((~~ensure excess~~)):

(a) Determine shelter expenses((~~:~~
~~(a) Means~~)) to be the actual required maintenance expenses for the community spouse's principal residence for:

(i) Rent;

(ii) Mortgage;

(iii) Taxes and insurance;

(iv) Any maintenance care for a condominium or cooperative; and

(v) The food stamp standard allowance for utilities, provided the utilities are not included in the maintenance charges for a condominium or cooperative.

(b) ((~~Do not exceed~~)) Consider the standard shelter allocation to be three hundred ((~~sixty-nine~~)) seventy-seven dollars, effective April 1, ((~~1994~~)) 1995.

(c) Consider as "excess shelter expenses" an amount equal to the actual expenses under subsection (5)(a) of this section less the standard shelter allocation under subsection (5)(b) of this section.

(6) The department shall determine the amount the institutional spouse allocates to the community spouse may only be greater than the amount in subsection (4)(d)(i) of this section when:

(a) A court enters an order against the institutionalized client for the community spouse support; or

(b) A hearings officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) The client shall use the income remaining after allocations specified in subsection (4) of this section toward payment of the client's cost of care at the department rate.

(8) SSI-related clients((÷)).

(a) SSI-related clients shall continue to receive total payment under 1611 (b)(1) of the Social Security Act for the first three full calendar months of institutionalization in a public or Medicaid-approved medical institution or facility when the:

(i) Stay in the institution or facility is not expected to exceed three months; and

(ii) SSI-related clients plan to return to former living arrangements.

(b) The department shall not consider the SSI payment when computing the client's participation amount.

(9) The department shall not consider income from reparation payments made by the Federal Republic of Germany when computing the client's participation amount.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-508-0805 Pregnant woman—Income standards. (1) The department shall find a pregnant woman eligible for Medicaid as categorically needy when the pregnant woman meets the income requirements of this section.

(2) The department shall ensure total family income will not exceed one hundred eighty-five percent of the Federal Poverty Level (FPL). One hundred eighty-five percent of the current FPL is:

Family Size	Monthly Income
(a) One	$((~~1,135~~)) 1,152
(b) Two	$((~~1,517~~)) 1,547
(c) Three	$((~~1,900~~)) 1,941
(d) Four	$((~~2,282~~)) 2,336
(e) Five	$((~~2,664~~)) 2,731
(f) Six	$((~~3,047~~)) 3,125
(g) Seven	$((~~3,429~~)) 3,520
(h) Eight	$((~~3,811~~)) 3,915

(i) For family units with nine members or more, add $((~~383~~)) 395 to the monthly income for each additional member.

WSR 95-11-046
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3851—Filed May 10, 1995, 3:22 p.m.]

Date of Adoption: May 10, 1995.

Purpose: Eliminates language that defines the use of CEAP funds by the Division of Children and Family Services (DCFS). Reference made to new rule submitted by DCFS. DCFS now has their own rule authority to issue CEAP funds designated as chapter 388-165 WAC.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-225-0300 Crisis intervention social services for families and children; and amending WAC 388-225-0020 General provisions.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 95-08-010 on March 23, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 10, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

AMENDATORY SECTION (Amending Order 3707, filed 2/23/94, effective 3/26/94)

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

(1) A family with dependent children; or

(2) A pregnant woman with no other children; or

(3) A dependent child who is or may be bound for foster care placement. Assistance provided for the child is specified under ((~~WAC 388-225-0300~~)) chapter 388-165 WAC.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-225-0300	Crisis intervention social services for families and children.

WSR 95-11-047
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Vocational Rehabilitation)
[Order 3849—Filed May 10, 1995, 3:24 p.m.]

Date of Adoption: May 10, 1995.

Purpose: Repeal WAC 490-500-610.

Citation of Existing Rules Affected by this Order: Repealing WAC 490-500-610 Independent living program—Order of selection.

Statutory Authority for Adoption: RCW 74.29.025.

PERMANENT

Pursuant to notice filed as WSR 95-08-054 on April 3, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 10, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 490-500-610	Independent living program—Order of selection.

PERMANENT

WSR 95-11-048
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3850—Filed May 10, 1995, 3:26 p.m.]

Date of Adoption: May 10, 1995.

Purpose: New chapter 388-165 WAC, Consolidated emergency assistance program—Social services (CEAP-SS) is a federally-matched program providing time-limited assistance and services to meet the emergent needs of specifically eligible families and children. The new rule serves to conform the code to the recently amended Title IV-A state plan, maximize claims on federal match and facilitate administration of the programs known as emergency assistance and currently governed by chapter 388-225 WAC, specifically WAC 388-225-0300 Crisis intervention social services for families an children. The new rule provides the general provisions, application procedures, eligibility conditions and payment limitations for the family emergency assistance program as it applies to families and children served through the state's Division of Children and Family Services, Juvenile Rehabilitation Administration, or a child(ren) or parent with child(ren) admitted to or at risk of admittance to a domestic violence or sexual assault shelter. The new rule identifies the methodology and eligibility criteria to enable the state to claim federal financial reimbursement for these programs currently financed by publicly expended state funds and conforms the code to the amended Title IV-A state plan.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.660, and 74.04.050.

Other Authority: 45 CFR 233.120 Title IV-A Section 406(e).

Pursuant to notice filed as WSR 95-08-044 on March 31, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 10, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services
by Rosemary Carr

Chapter 388-165 WAC
CONSOLIDATED EMERGENCY ASSISTANCE PROGRAM—SOCIAL SERVICES (CEAP-SS)

NEW SECTION

WAC 388-165-005 Purpose. The Consolidated Emergency Assistance Program—Social Services (CEAP-SS) is a federally-matched program providing time-limited assistance and services to meet the emergent needs of children and their families.

NEW SECTION

WAC 388-165-010 General provisions. The department shall authorize CEAP-SS for the following person who meets the eligibility conditions established in this chapter:

(1) A child who is eligible for the department's child welfare services, child protective services, or family reconciliation services as specified under chapter 388-70 WAC and WAC 388-15-130;

(2) A youth who is committed to the department's juvenile rehabilitation administration as specified in chapter 275-35 WAC; and

(3) A minor child or a parent with a minor child who is:

(a) Admitted to a domestic violence or sexual assault shelter; or

(b) At risk of such an admission as specified in chapter 248-554 WAC.

(4) A minor child or a parent with a minor child not meeting the eligibility conditions established in this chapter may be eligible for emergency assistance (CEAP) as specified in chapter 388-225 WAC.

NEW SECTION

WAC 388-165-020 Application procedure. The department shall accept and promptly act upon a CEAP-SS application made by:

(1) A parent or legal guardian on behalf of a child;

(2) A public agency staff on behalf of a child; or

(3) A department staff on behalf of a child.

NEW SECTION

WAC 388-165-030 Application form. Department staff shall ensure the CEAP-SS application is on a form approved by the department and includes:

(1) Paper application form; or

(2) Electronic application form, such as provided by division of children and family services (DCFS).

NEW SECTION

WAC 388-165-040 Assistance unit. (1) The department shall authorize the following person as the assistance unit:

(a) A single child; or

(b) A child or a parent with a child who is:

(i) Admitted to a domestic violence or sexual assault shelter; or

(ii) At risk of such shelter admission.

(2) A child receiving SSI, AFDC, or other entitlement benefits shall not be excluded from the assistance unit.

(3) For services to children, youth and families, the receipt of CEAP-SS by one child of a sibling group in a twelve-month period shall not exclude any other child of the sibling group from receiving CEAP-SS independently in the same twelve-month period.

NEW SECTION

WAC 388-165-050 Eligibility conditions—Emergent need. To be eligible for CEAP-SS, an applicant shall meet the following conditions:

(1) A child removed from the child's own home into publicly funded care or supervision, or a child at risk of such removal as determined by the department worker or worker's designee; or

(2) A child or a parent with a child who is:

(a) Admitted to a domestic violence or sexual assault shelter; or

(b) At risk of such admission.

NEW SECTION

WAC 388-165-060 Eligibility conditions—Income and resource eligibility. An applicant shall earnestly ensure an annual income of less than eighty-eight thousand six hundred eight dollars.

NEW SECTION

WAC 388-165-070 Eligibility conditions—Living with a relative of a specified degree. Before approving CEAP-SS assistance, the department shall ensure the child is living or has lived in the past six months with a:

(1) Parent as specified under WAC 388-215-1060; or

(2) Relative as specified under WAC 388-215-1080.

NEW SECTION

WAC 388-165-080 Eligibility conditions—Job refusal. The applicant shall not have refused a bona fide job offer of employment or training for employment, without good cause, within thirty days before application.

(1) The department shall determine if the applicant's conditions which constitute good cause for refusal of employment are the same conditions as described in WAC 388-225-0090(2).

(2) Additional conditions may constitute "good cause" based on the discretion of the department staff.

NEW SECTION

WAC 388-165-090 Eligibility conditions—Residency and alien status. (1) To be eligible for CEAP-SS:

(a) An applicant shall be a resident of Washington state. "Resident" means a person:

(i) Voluntarily living in the state with the intention of making and maintaining a home in the state; and

(ii) Not residing in the state for a temporary purpose.

(b) If not a resident of Washington state, an applicant shall be:

(i) Detained in Washington state for reasons beyond the household's control as a result of events which could not have been reasonably anticipated; or

(ii) A migrant. "Migrant" means a person who moves from one region to another to perform work or a duty.

(2) An alien granted lawful temporary resident status under sections 210A and 245A of the Immigration and Nationality Act shall be ineligible. Disqualification due to this provision applies for a period of five years from the date the temporary resident status was granted.

NEW SECTION

WAC 388-165-100 Payment limitations. (1) The department shall authorize CEAP-SS to an eligible applicant for a period of twelve months, not to exceed one authorization per eligible applicant in a twelve-month period. The department shall ensure the eligible applicant's CEAP-SS application constitutes authorization for all services and assistance as determined appropriate and necessary for the entire twelve-month period.

(2) The department shall ensure CEAP-SS services and assistance provided under this provision do not grant direct cash assistance to the child or family. Vendors or the department staff or the designee shall provide services and assistance. Services and assistance include, but are not limited, to the following subject to department determination and approval:

(a) Substitute care, including placement in juvenile facilities;

(b) Family preservation or family reconciliation services;

(c) Home-based services;

(d) Medical or mental health services; and

(e) Support services to normalize individual or family functioning.

PERMANENT

WSR 95-11-056
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3848A—Filed May 11, 1995, 4:22 p.m.]

Date of Adoption: May 11, 1995.

Purpose: Update eligibility income standards to comply with the April 1, 1995, increase in the federal poverty level. Implements a state plan revision allowing federal, state, or local taxes, up to the medically needy income level, paid or owed by the client to reduce participation in cost of nursing facility.

Citation of Existing Rules Affected by this Order: Amending WAC 388-509-0920 Children's health program, 388-509-0960 Children's income standards, 388-517-1720 Qualified Medicare beneficiaries—Income and resources, 388-517-1740 Special low-income Medicare beneficiaries (SLMB)—Income and resources, and 388-517-1760 Qualified disabled working individuals (QDWI) income and resources.

Statutory Authority for Adoption: RCW 74.08.090.

Pursuant to notice filed as WSR 95-08-045 on March 31, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 11, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3769, filed 8/10/94, effective 9/10/94)

WAC 388-509-0920 Children's health program. (1) The department shall consider a child seventeen years of age or younger, eligible for state-funded medical services with the same coverage as categorically needy, when:

(a) The child is not eligible for a federally-funded Medicaid program; and

(b) The child's nonexempt family income does not exceed one hundred percent of the current federal poverty level (FPL). See income guidelines as described under subsection (4) of this section.

(2) The department shall determine nonexempt family income by:

(a) Following AFDC methodology; and

(b) Applying the medical income rules as described under WAC 388-506-0610.

(3) The department shall not require a child to meet the following eligibility factors:

(a) Citizenship;

(b) Social Security number; or

(c) Resources limits.

(4) The department shall find that one hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	$ ((~~614~~)) 623
(b) Two	$ ((~~820~~)) 836
(c) Three	$((~~1,027~~)) 1,050
(d) Four	$((~~1,234~~)) 1,263
(e) Five	$((~~1,440~~)) 1,476
(f) Six	$((~~1,647~~)) 1,690
(g) Seven	$((~~1,854~~)) 1,903
(h) Eight	$((~~2,060~~)) 2,116

(i) For family units with more than eight members, add $((~~207~~))214 to the monthly income for each additional member.

AMENDATORY SECTION (Amending Order 3833, filed 2/8/95, effective 3/11/95)

WAC 388-509-0960 Children's income standards. (1) The department shall determine a child meeting the eligibility requirements under WAC 388-509-0910 eligible as categorically needy when the total family countable income does not exceed two hundred percent of the federal poverty level (FPL). The department shall find that two hundred percent of the current FPL equals:

Family Size	Monthly Income
(a) One	$((~~1,227~~)) 1,245
(b) Two	$((~~1,640~~)) 1,672
(c) Three	$((~~2,054~~)) 2,099
(d) Four	$((~~2,467~~)) 2,525
(e) Five	$((~~2,880~~)) 2,952
(f) Six	$((~~3,294~~)) 3,379
(g) Seven	$((~~3,707~~)) 3,805
(h) Eight	$((~~4,120~~)) 4,232

(i) For family units with more than eight members, add $((~~414~~)) 427 to the monthly income for each additional member.

(2) For a child determined eligible under WAC 388-509-0910, the department shall not consider a change in family income during the certification period.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1720 Qualified Medicare beneficiaries—Income and resources. (1) The department shall provide Medicare cost sharing for a qualified medical beneficiary (QMB) client having:

(a) A total countable income, as determined under chapter 388-511 WAC, except as specified in subsection (2) of this section, not exceeding one hundred percent of the current federal poverty level (FPL). One hundred percent of the current FPL is:

Family Size	Monthly
(i) One	$((~~614~~)) 623
(ii) Two	$((~~820~~)) 836

(b) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

(2) The department shall not consider a person's Social Security cost-of-living increase until April 1 of each year.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1740 Special low-income Medicare beneficiaries (SLMB)—Income and resources. ((~~(1)~~)) The department shall provide Medicare cost sharing for a SLMB client having:

((~~(a)~~)) (1) A total countable income, as determined under chapter 388-511 WAC, over one hundred percent of the current federal poverty level (FPL), but not exceeding one hundred ((~~ten~~)) twenty percent of the FPL. One hundred ((~~ten~~)) twenty percent of the current FPL is:

Family Size	Monthly
(i) One	$((~~675~~)) 747
(ii) Two	$((~~902~~)) 1,003

((~~(b)~~)) (2) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

((~~(2) Effective January 1, 1995, the department shall find a person eligible under subsection (1)(a) of this section whose total countable income does not exceed one hundred twenty percent of the FPL.~~))

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-517-1760 Qualified disabled working individuals (QDWI) income and resources. The department shall pay premiums for Medicare Part A for a person having:

(1) A total countable family income, as determined under chapter 388-511 WAC, not exceeding two hundred percent of the current FPL. Two hundred percent of the current FPL is:

Family Size	Monthly
(a) One	$((~~1,227~~)) 1,245
(b) Two	$((~~1,640~~)) 1,672

(2) Resources, as determined under WAC 388-511-1110, not exceeding twice the maximum supplemental security income (SSI) resource limits.

WSR 95-11-058
PERMANENT RULES
PUGET SOUND AIR POLLUTION CONTROL AGENCY
[Filed May 12, 1995, 11:32 a.m.]

Date of Adoption: May 11, 1995.

Purpose: To incorporate guidelines for evaluating toxic air contaminant emissions into the regulations; and to clearly indicate with check marks, the PSAPCA toxic air contaminants that are listed in 112(b) of the federal Clean Air Act.

Citation of Existing Rules Affected by this Order: Amending PSAPCA Regulation III - Appendix A.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 95-07-134 on March 22, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 11, 1995
Margaret L. Corbin
Air Pollution Engineer

NEW SECTION

REGULATION III SECTION 2.07 EVALUATING THE IMPACTS OF TOXIC AIR CONTAMINANTS

(a) Applicability. This section describes the procedures that shall be used for quantifying emissions and analyzing impacts of toxic air contaminants in order to meet the requirements for new or modified toxic air contaminant sources [see Section 6.07(e) of Regulation I] and for existing toxic air contaminant sources [see Section 2.05 of this Regulation].

(b) Quantifying Emissions of Toxic Air Contaminants.

(1) The owner or operator of a new or modified toxic air contaminant source subject to Section 6.07(e) of Regulation I shall quantify toxic air contaminant emissions that may be discharged to the atmosphere after applying the required control technology, and shall submit this information as part of a Notice of Construction and Application for Approval.

(2) The owner or operator of an existing toxic air contaminant source subject to Section 2.05 of this Regulation shall, upon request by the Agency, quantify toxic air contaminant emissions emitted by the facility and submit that information within 30 days.

(3) The following assumptions shall be made when quantifying toxic air contaminant emissions:

(A) Each toxic air contaminant is introduced into the atmosphere in an unaltered form continuously, at the maximum concentration known to exist at the source unless there is reliable data to the contrary or there is a physical or legal restriction.

(B) Dioxin and furan emissions shall be combined as one toxic air contaminant, equivalent in potency to 2,3,7,8-Tetrachlorodibenzo-p-dioxin.

(C) Benzo(a)anthracene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenz(a,h)anthracene, indeno(1,2,3-cd)pyrene, and benzo(a)pyrene shall be combined as one toxic air contaminant, equivalent in potency to benzo(a)pyrene.

(c) Analyzing Impacts of Toxic Air Contaminants. The air quality impact analysis for toxic air contaminant sources shall be performed using one of the following procedures:

(1) The EPA guideline dispersion model, TSCREEN, shall be used to demonstrate that the predicted concentration of each contaminant is below the corresponding Acceptable Source Impact Level listed in Appendix A of this Regulation. Stack parameters shall be submitted with the notice of construction application, or, for existing sources, within 30 days after the Agency requests the information. The maximum 1-hour concentration calculated by the model shall be converted with a persistence factor of 0.4 to a 24-hour average concentration or 0.08 to an annual average concentration;

(2) The owner or operator shall submit a more comprehensive evaluation including the use of other EPA guideline models and more accurate emission estimation techniques to demonstrate that the predicted concentration of each contaminant is below the corresponding Acceptable Source Impact Level listed in Appendix A of this Regulation in all areas where the general public has access; or

(3) If predicted ambient concentrations are not below the Acceptable Source Impact Levels listed in Appendix A of this Regulation, the owner or operator shall submit a risk analysis following the procedures in WAC 173-460-090(4), which demonstrates that emissions from the source will not cause air pollution. New or modified sources shall also comply with supplemental requirements of the Department of Ecology as specified in WAC 173-460-090 and 173-460-100.

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.

PERMANENT

PERMANENT

AMENDATORY SECTION

REGULATION III APPENDIX A ACCEPTABLE SOURCE IMPACT LEVELS

COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
ANTU	86-88-4	1.0	B
√Acetaldehyde	75-07-0	0.45	A
√Acetamide	60-35-5	TBD	B
Acetic acid	64-19-7	83	B
Acetic anhydride	108-24-7	67	B
Acetone	67-64-1	5900	B
√Acetonitrile	75-05-8	220	B
√Acetophenone	98-86-2	TBD	B
√2-Acetylaminofluorene	53-96-3	TBD	A
Acetylene tetrabromide	79-27-6	47	B
√Acrolein	107-02-8	0.02	B
√Acrylamide	79-06-1	0.00077	A
√Acrylic acid	79-10-7	0.30	B
√Acrylonitrile	107-13-1	0.015	A
Aldrin	309-00-2	0.0002	A
Allyl alcohol	107-18-6	17	B
√Allyl chloride	107-05-1	1.0	B
Allyl glycidyl ether (AGE)	106-92-3	77	B
Allyl propyl disulfide	2179-59-1	40.0	B
Aluminum, Al alkyls	7429-90-5	6.7	B
Aluminum, as Al metal dusts	7429-90-5	33	B
Aluminum, as Al pyro powders	7429-90-5	17	B
Aluminum, as Al soluble salts	7429-90-5	6.7	B
Aluminum, as Al welding fumes	7429-90-5	17	B
2-Aminoanthraquinone	117-79-3	TBD	A
o-Aminoazotoluene	97-56-3	TBD	A
√4-Aminobiphenyl	92-67-1	TBD	A
2-Aminopyridine	504-29-0	6.3	B
Amitrole	61-82-5	0.06	C
Ammonia	7664-41-7	100	B
Ammonium chloride fumes	12125-02-9	33	B
Ammonium perfluorooctanoate	3825-26-1	0.33	B
Ammonium sulfamate	7773-06-0	33	B
n-Amyl acetate	628-63-7	1800	B
sec-Amyl acetate	626-38-0	2200	B
√Aniline	62-53-3	6.3	A
√Aniline and homologues	62-53-3	1.0	B
Anisidine (o-,p- isomers)	29191-52-4	1.7	B
√o-Anisidine	90-04-0	1.7	C
√Antimony & compounds, as Sb	7440-36-0	1.7	B
Antimony trioxide, as Sb	1309-64-4	1.7	B
√Arsenic and inorganic arsenic compounds	7440-38-2	0.00023	A
√Arsine	7784-42-1	0.53	B
√Asbestos (Note: fibers/ml)	1332-21-4	0.0000044	A
Asphalt (petroleum) fumes	8052-42-4	17	B
Atrazine	1912-24-9	17	B
Auramine (technical grade)	2465-27-2	TBD	A
Azinphos-methyl	86-50-0	0.67	B
√Aziridine (Ethylene imine)	151-56-4	2.9	B
Barium, soluble compounds Ba	7440-39-3	1.7	B
Benomyl	17804-35-2	33	B
√Benzene	71-43-2	0.12	A
√Benzidine and its salts	92-87-5	0.000015	A

See last page for key.

COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Benzo(a)anthracene	56-55-3	TBD	A
Benzo(a)pyrene	50-32-8	0.00048	A
Benzo(b)fluoranthene	205-99-2	TBD	A
Benzo(j)fluoranthene	205-82-3	TBD	A
Benzo(k)fluoranthene	207-08-9	TBD	A
✓Benzotrichloride	98-07-7	TBD	B
Benzoyl peroxide	94-36-0	17	B
✓Benzyl chloride	100-44-7	17	B
Benzyl violet 4b	1694-09-3	TBD	A
✓Beryllium and its compounds	7440-41-7	0.00042	A
✓Biphenyl	92-52-4	4.3	B
✓Bis(2-chloroethyl)ether (Dichloroethyl ether)	111-44-4	0.003	A
✓Bis(chloromethyl)ether	542-88-1	0.000016	A
✓Bis(2-ethylhexyl)phthalate (DEHP; Di(2-ethylhexyl)phthalate)	117-81-7	2.5	A
Bismuth telluride	1304-82-1	33	B
Bismuth telluride Se doped	1304-82-1	17	B
Borates, anhydrous	1303-96-4	3.3	B
Borates, decahydrate	1303-96-4	17	B
Borates, pentahydrate	1303-96-4	3.3	B
Boron oxide	1303-86-2	33	B
Boron tribromide	10294-33-4	33	B
Boron trifluoride	76737-07-2	9.3	B
Bromacil	314-40-9	33	B
Bromine	7726-95-6	2.2	B
Bromine pentafluoride	7789-30-2	2.4	B
✓Bromoform	75-25-2	0.91	A
✓Bromomethane (Methyl bromide)	74-83-9	5.0	B
✓1,3-Butadiene	106-99-0	0.0036	A
Butane	106-97-8	6300.0	B
✓2-Butanone (Methyl ethyl ketone)	78-93-3	1000	B
2-Butoxyethanol (Butyl cellosolve)	111-76-2	400	B
n-Butyl acetate	123-86-4	2400	B
sec-Butyl acetate	105-46-4	3200	B
tert-Butyl acetate	540-88-5	3200	B
Butyl acrylate	141-32-2	170	B
n-Butyl alcohol	71-36-3	500	B
sec-Butyl alcohol	78-92-2	1000	B
tert-Butyl alcohol	75-65-0	1000	B
tert-Butyl chromate, as CrO_3	1189-85-1	0.33	B
n-Butyl glycidyl ether (BGE)	2426-08-6	440	B
n-Butyl lactate	138-22-7	83	B
n-Butyl mercaptan	109-79-5	6.0	B
n-Butylamine	109-73-9	50.0	B
✓1,2-Butylene oxide (1,2-Epoxybutane)	106-88-7	20	B
o-sec-Butylphenol	89-72-5	100	B
p-tert-Butyltoluene	98-51-1	200	B
ß-Butyrolactone	3068-88-0	TBD	A
✓Cadmium and compounds	7440-43-9	0.00056	A
✓Calcium cyanamide	156-62-7	1.7	B
Calcium hydroxide	1305-62-0	17	B
Calcium oxide	1305-78-8	6.7	B
Camphor, synthetic	76-22-2	40	B
✓Caprolactam, dusts	105-60-2	3.3	B
✓Caprolactam, vapors	105-60-2	67	B
Captafol	2425-06-1	0.33	B
✓Captan	133-06-2	17	B
✓Carbaryl	63-25-2	17	B
Carbofuran	1563-66-2	0.33	B
Carbon black	1333-86-4	12	B

See last page for key.

PERMANENT

COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
✓Carbon disulfide	75-15-0	100	B
Carbon tetrabromide	558-13-4	4.7	B
✓Carbon tetrachloride	56-23-5	0.067	A
Carbonyl fluoride	353-50-4	18	B
✓Carbonyl sulfide	463-58-1	TBD	B
✓Catechol	120-80-9	77	B
Cellosolve (2-Ethoxyethanol)	110-80-5	200	B
Cesium hydroxide	21351-79-1	6.7	B
✓Chloramben	133-90-4	TBD	B
✓Chlordane	57-74-9	0.0027	A
✓Chlorinated camphene (Toxaphene)	8001-35-2	0.0031	A
Chlorinated diphenyl oxide (hexachlorophenyl ether)	55720-99-5	1.7	B
✓Chlorine	7782-50-5	5.0	B
Chlorine dioxide	10049-04-4	0.2	B
Chlorine trifluoride	7790-91-2	1.3	B
1-Chloro-1-nitropropane	600-25-9	33	B
Chloroacetaldehyde	107-20-0	11	B
✓Chloroacetic acid	79-11-8	TBD	B
✓a-Chloroacetophenone	532-27-4	1.1	B
Chloroacetyl chloride	79-04-9	0.67	B
o-Chlorobenylidene malononitrile	2698-41-1	1.3	B
✓Chlorobenzene	108-90-7	150	B
✓Chlorobenzilate	510-15-6	0.2	A
Chlorobromomethane	74-97-5	3500	B
Chlorodifluoromethane	75-45-6	12000	B
✓Chloroethane (Ethyl chloride)	75-00-3	10000	B
✓Chloroform	67-66-3	0.043	A
✓Chloromethane (Methyl chloride)	74-87-3	340	B
✓Chloromethyl methyl ether (technical grade)	107-30-2	TBD	A
Chloropentafluoroethane	76-15-3	21000	B
Chlorophenols	108-43-0	0.18	A
Chloropicrin	76-06-2	2.2	B
✓ß-Chloroprene	126-99-8	120.0	C
o-Chlorostyrene	2039-87-4	940	B
o-Chlorotoluene	95-49-8	860	B
Chlorpyrifos	2921-88-2	0.67	B
✓Chromium (II) compounds, as Cr	7440-47-3	1.7	B
✓Chromium (III) compounds, as Cr	7440-47-3	1.7	B
✓Chromium (VI) compounds	7440-47-3	0.000083	A
✓Chromium (metal)	7440-47-3	1.7	B
Chromyl chloride	14977-61-8	0.53	B
Clopidol	2971-90-6	33	B
✓Cobalt as Co, metals, dusts and fumes	7440-48-4	0.17	B
Cobalt carbonyl as Co	10210-68-1	0.33	B
Cobalt hydrocarbonyl	16842-03-8	0.33	B
✓Coke oven emissions	81103*	0.0016	A
Copper as Cu, dusts and mists	7440-50-8	3.3	B
Copper, fumes	7440-50-8	0.67	B
Cotton dust, raw	81106*	0.67	B
Creosote	8001-58-9	TBD	A
✓Cresol, all isomers	1319-77-3	73	B
Crotonaldehyde	4170-30-3	20.0	B
Crufomate	299-86-5	17	B
✓Cumene (Isopropylbenzene)	98-82-8	820	B
Cupferron	135-20-6	TBD	A
Cyanamide	420-04-2	6.7	B
✓Cyanides, as CN	51-12-5	17	B
Cyanogen	460-19-5	67	B
Cyanogen chloride	506-77-4	2.5	B

See last page for key.

COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
✓1,4-Cyclohexadienedione (Quinone)	106-51-4	1.5	B
Cyclohexane	110-82-7	3400	B
Cyclohexanol	108-93-0	690	B
Cyclohexanone	108-94-1	330	B
Cyclohexene	110-83-8	3400	B
Cyclohexylamine	108-91-8	140	B
Cyclonite	121-82-4	5.0	B
Cyclopentadiene	542-92-7	680	B
Cyclopentane	287-92-3	5700	B
Cyhexatin	13121-70-5	17	B
✓2,4-D salts and esters (2,4-Dichlorophenoxy acetic acid)	94-75-7	33.0	C
✓DDE (p,p'-Dichlorodiphenyldichloroethylene)	3547-04-4	0.1	A
DDT (1,1,1-Trichloro-2,2-bis(p-chlorophenyl)ethane)	50-29-3	0.01	A
Decaborane	17702-41-9	0.83	B
Demeton	8065-48-3	0.37	B
✓Di(2-ethylhexyl)phthalate (Bis(2-ethylhexyl)phthalate; DEHP)	117-81-7	2.5	A
Diacetone alcohol	123-42-2	790	B
N,N-Diacetylbenzidine	613-35-4	TBD	A
4,4'-Diaminodiphenyl ether	101-80-4	TBD	A
Diazinon	333-41-5	0.33	B
✓Diazomethane	334-88-3	1.1	B
Dibenz(a,h)acridine	226-36-8	TBD	A
Dibenz(a,h)anthracene	53-70-3	TBD	A
Dibenz(a,j)acridine	224-42-0	TBD	A
Dibenzo(a,e)pyrene	192-65-4	TBD	A
Dibenzo(a,h)pyrene	189-64-0	TBD	A
Dibenzo(a,l)pyrene	191-30-0	TBD	A
✓Dibenzofurans	132-64-9	TBD	A
1,2,7,8-Dibenzopyrene(Dibenzo(a,i)pyrene)	189-55-9	TBD	A
Diborane	19287-45-7	0.37	B
✓1,2-Dibromo-3-chloropropane	96-12-8	0.20	B
Dibutyl phosphate	107-66-4	29	B
✓Dibutyl phthalate	84-74-2	17	B
2-N-Dibutylaminoethanol	102-81-8	47	B
Dichloroacetylene	7572-29-4	1.3	B
✓1,4-Dichlorobenzene (p-Dichlorobenzene)	106-46-7	1.5	A
o-Dichlorobenzene (1,2-Dichlorobenzene)	95-50-1	1000	B
✓3,3'-Dichlorobenzidine	91-94-1	0.077	A
1,4-Dichloro-2-butene	764-41-0	0.00038	A
3,3'-Dichloro-4,4'-diaminodiphenyl ether	28434-86-8	TBD	A
Dichlorodifluoromethane	75-71-8	16000	B
1,3-Dichloro-5,5-dimethylhydantoin	118-52-5	0.67	B
✓p,p'-Dichlorodiphenyldichloroethylene (DDE)	3547-04-4	0.1	A
✓1,1-Dichloroethane (Ethylidene dichloride)	75-34-3	2700	B
✓1,2-Dichloroethane (Ethylene dichloride)	107-06-2	0.038	A
✓Dichloroethyl ether (Bis (2-chloroethyl)ether)	111-44-4	0.003	A
✓1,1-Dichloroethylene (Vinylidene chloride)	75-35-4	67	B
1,2-Dichloroethylene	540-59-0	2600	B
Dichlorofluoromethane	75-43-4	130	B
✓Dichloromethane (Methylene chloride)	75-09-2	0.56	A
1,1-Dichloro-1-nitroethane	594-72-9	40	B
Dichlorophenylarsine (arsenic group)	696-28-6	TBD	A
✓1,2-Dichloropropane (Propylene dichloride)	78-87-5	4.0	C
✓Dichloropropene	542-75-6	20	B
2,2-Dichloropropionic acid	75-99-0	19	B
Dichlorotetrafluoroethane	76-14-2	23000	B
✓Dichlorvos	62-73-7	3.3	B
Dicrotophos	141-66-2	0.83	B
Dicyclopentadiene	77-73-6	100	B

See last page for key.

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COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Dicyclopentadienyl iron	102-54-5	33	B
Dieldrin	60-57-1	0.00022	A
✓Diethanolamine	111-42-2	43	B
Diethyl ketone	96-22-0	2300	B
Diethyl nitrosamine (DEN; N-Nitrosodiethylamine)	55-18-5	TBD	A
Diethyl phthalate	84-66-2	17	B
✓Diethyl sulfate	64-67-5	TBD	B
Diethylamine	109-89-7	100	B
Diethylaminoethanol	100-37-8	170	B
Diethylene triamine	111-40-0	14	B
1,2-Diethylhydrazine	1615-80-1	TBD	A
Difluorodibromomethane	75-61-6	2900	B
Diglycidyl ether	2238-07-5	1.7	B
Diglycidyl resorcinol ether	101-90-6	TBD	A
Diisobutyl ketone	108-83-8	480	B
Diisopropylamine	108-18-9	67	B
✓3,3'-Dimethoxybenzidine (ortol-dianisidine)	119-90-4	TBD	A
✓Dimethyl aminoazobenzene	60-11-7	TBD	B
✓3,3'-Dimethyl benzidine	119-93-7	0.0038	A
✓Dimethyl carbamoyl chloride	79-44-7	TBD	B
✓Dimethyl phthalate	131-11-3	17	B
✓Dimethyl sulfate	77-78-1	1.7	C
Dimethylacetamide	127-19-5	120	B
Dimethylamine	124-40-3	60	B
✓Dimethylaniline (Diethyl aniline)	121-69-7	83	B
✓Dimethylformamide	68-12-2	30	B
✓1,1-Dimethylhydrazine	57-14-7	4.0	B
1,2-Dimethylhydrazine	540-73-8	4.0	C
✓Dimethylnitrosoamine (N-Nitrosodimethylamine)	62-75-9	0.000071 ((TBD))	A
Dinitolmide	148-01-6	17	B
✓Dinitro-o-cresol	534-52-1	0.67	B
Dinitrobenzene, all isomers	528-29-0	3.3	B
✓2,4-Dinitrophenol	51-28-5	TBD	B
✓2,4-Dinitrotoluene	121-14-2	5.0	B
✓1,4-Dioxane (1,4-Diethyleneoxide)	123-91-1	0.032	A
Dioxathion	78-34-2	0.67	B
Dioxins and furans	43110*	TBD	A
Diphenylamine	122-39-4	33	B
✓1,2-Diphenyl hydrazine	122-66-7	0.0045	A
Dipropyl ketone	123-19-3	780	B
Dipropylene glycol methyl ether	34590-94-8	2000	B
Diquat	85-00-7	1.7	B
Disulfiram	97-77-8	6.7	B
Disulfuton	298-04-4	0.33	B
2,6-Ditert. butyl-p-cresol	128-37-0	33	B
Diuron	330-54-1	33	B
Divinyl benzene	1321-74-0	180	B
EPN	2104-64-5	1.7	B
Endosulfan	115-29-7	0.33	B
Endrin	72-20-8	0.33	B
Enflurane	13838-16-9	1900	B
✓Epichlorohydrin (1-Chloro-2,3-epoxypropane)	106-89-8	0.83	A
✓1,2-Epoxybutane (1,2-Butylene oxide)	106-88-7	20	B
Ethanolamine	141-43-5	25	B
Ethion	563-12-2	1.3	B
2-Ethoxyethanol (Cellosolve)	110-80-5	200	B
2-Ethoxyethyl acetate	111-15-9	90	B
Ethyl acetate	141-78-6	4800	B
✓Ethyl acrylate	140-88-5	66	B

See last page for key.

COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Ethyl alcohol	64-17-5	6300	B
Ethyl amyl ketone	541-85-5	440	B
✓Ethyl benzene	100-41-4	1000	B
Ethyl bromide	74-96-4	3000	B
Ethyl butyl ketone	106-35-4	780	B
✓Ethyl carbamate (Urethan)	51-79-6	TBD	B
✓Ethyl chloride (Chloroethane)	75-00-3	10000	B
Ethyl ether	60-29-7	4000	B
Ethyl formate	109-94-4	1000	B
Ethyl mercaptan	75-08-1	4.3	B
Ethyl silicate	78-10-4	280	B
Ethylamine	75-04-7	60	B
✓Ethylene dichloride (1,2-Dichloroethane)	107-06-2	0.038	A
Ethylene chlorohydrin	107-07-3	11	B
Ethylene diamine	107-15-3	83	B
✓Ethylene dibromide (1,2-Dibromoethane)	106-93-4	0.0045	A
✓Ethylene glycol	107-21-1	420	B
Ethylene glycol dinitrate	628-96-6	1.0	B
✓Ethylene imine (Aziridine)	151-56-4	2.9	B
✓Ethylene oxide	75-21-8	0.010	A
✓Ethylene thiourea	96-45-7	1.0	A
✓Ethylidene dichloride (1,1-Dichloroethane)	75-34-3	2700	B
Ethylidene norbornene	16219-75-3	83	B
N-Ethylmorpholine	100-74-3	77	B
Fenamiphos	22224-92-6	0.33	B
Fensulfothion	115-90-2	0.33	B
Fenthion	55-38-9	0.67	B
Ferbam	14484-64-1	33	B
Ferrovanadium dust	12604-58-9	3.3	B
Fibrous glass dust	81111*	33	B
✓Fine mineral fibers	81104*	33	B
Fluorides, as F	16984-48-8	8.3	B
Fluorine	7782-41-4	5.3	B
Fonofos	944-22-9	0.33	B
✓Formaldehyde	50-00-0	0.077	A
Formamide	75-12-7	60	B
Formic acid	64-18-6	31	B
Furazolidone	67-45-8	TBD	A
Furfural	98-01-1	26	B
Furfuryl alcohol	98-00-1	130	B
Furium (nitrofuran group)	43111*	TBD	A
Germanium tetrahydride	7782-65-2	2.1	B
Glutaraldehyde	111-30-8	2.5	B
Glyciadaldehyde	765-34-4	TBD	A
Glycidol	556-52-5	250	B
✓Glycol ethers	43107*	TBD	B
Hafnium	7440-58-6	1.7	B
Halothane	151-67-7	1300	B
✓Heptachlor	76-44-8	0.00077	A
Heptane (n-Heptane)	142-82-5	5500	B
✓Hexachlorobenzene	118-74-1	0.0022	A
✓Hexachlorobutadiene	87-68-3	0.70	B
Hexachlorocyclohexane (Lindane) Alpha (BHC)	319-84-6	1.7	C
Hexachlorocyclohexane (Lindane) Beta (BHC)	319-85-7	1.7	C
✓Hexachlorocyclohexane (Lindane) Gamma (BHC)	58-89-9	0.0026	A
✓Hexachlorocyclopentadiene	77-47-4	0.33	B
1,2,3,6,7,8-Hexachloro-dibenzo-o-dioxin (1:2 mixture)	34465-46-8	TBD	A

See last page for key.

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COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
1,2,3,7,8,9-Hexachloro-dibenzo-o-dioxin (1:2 mixture)	19408-74-3	TBD	A
✓Hexachloroethane	67-72-1	32.0	B
Hexachloronaphthalene	1335-87-1	0.67	B
Hexachlorophenyl ether (Chlorinated diphenyl oxide)	55720-99-5	1.7	B
Hexafluoroacetone	684-16-2	2.3	B
✓Hexamethylene diisocyanate	822-06-0	0.11	B
✓Hexamethylphosphoramide	680-31-9	TBD	A
✓Hexane (n-Hexane)	110 ((~~100~~))-54-3	200	B
Hexane, other isomers	43103*	5900	B
2-Hexanone (Methyl butyl ketone)	591-78-6	67	B
✓Hexone (Methyl isobutyl ketone (MIBK))	108-10-1	680	B
sec-Hexyl acetate	108-84-9	980	B
Hexylene glycol	107-41-5	400	B
✓Hydrazine	302-01-2	0.0002	A
Hydrogen bromide	10035-10-6	33	B
✓Hydrogen chloride (Hydrochloric acid)	7647-01-0	7.0	B
Hydrogen cyanide	74-90-8	37	B
✓Hydrogen fluoride, as F (Hydrofluoric acid)	7664-39-3	8.7	B
Hydrogen peroxide	7722-84-1	4.7	B
Hydrogen selenide, as Se	7783-07-5	0.53	B
Hydrogen sulfide	7783-06-4	0.9	B
✓Hydroquinone	123-31-9	6.7	B
2-Hydroxypropyl acrylate	999-61-1	9.3	B
Indene	95-13-6	160	B
Indeno(1,2,3-cd)pyrene	193-39-5	TBD	A
Indium, & compounds as In	7440-74-6	0.33	B
Iodine	7553-56-2	3.3	B
Iodoform	75-47-8	33	B
✓Iodomethane (Methyl iodide)	74-88-4	40	B
Iron oxide fumes, Fe_2O_3 as Fe	1309-37-1	17	B
Iron pentacarbonyl, as Fe	13463-40-6	0.83	B
Iron salts, soluble as Fe	81101*	3.3	B
Isoamyl acetate	123-92-2	1700	B
Isoamyl alcohol	123-51-3	1200	B
Isobutyl acetate	110-19-0	2400	B
Isobutyl alcohol	78-83-1	510	B
Isocytl alcohol	26952-21-6	890	B
✓Isophorone	78-59-1	93	B
Isophorone diisocyanate	4098-71-9	0.15	B
Isopropoxyethanol	109-59-1	350	B
Isopropyl acetate	108-21-4	3500	B
Isopropyl alcohol	67-63-0	3300	B
Isopropyl ether	108-20-3	3500	B
Isopropyl glycidyl ether (IGE)	4016-14-2	790	B
Isopropyl oils	43112*	TBD	A
Isopropylamine	75-31-0	40	B
N-Isopropylaniline	768-52-5	37	B
✓Isopropylbenzene (Cumene)	98-82-8	820	B
Ketene	463-51-4	2.9	B
Lead acetate	301-04-2	TBD	A
Lead arsenate, as $Pb_3(AsO_4)_2$	3687-31-8	0.50	B
Lead chromate, as Cr	7758-97-6	0.040	B
✓Lead compounds	((~~7439-92-1~~)) 81109*	0.5	C
Lead phosphate	7446-27-7	TBD	A
Liquified petroleum gas	68476-85-7	6000	B
✓Lindane	58-89-9	0.0026	A
Lithium hydride	7580-67-8	0.080	B

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COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Magnesium oxide fumes	1309-48-4	33	B
Malathion	121-75-5	33	B
✓Maleic anhydride	108-31-6	3.3	B
✓Manganese, dusts and compounds	7439-96-5	0.40	B
✓Manganese, fumes	7439-96-5	3.3	B
Manganese cyclopentadienyl tricarbonyl	12079-65-1	0.33	B
✓Mercury, Aryl & inorganic compounds	7439-97-6	0.33	B
✓Mercury, as Hg Alkyl compounds	7439-97-6	0.33	B
✓Mercury, vapors except alkyl	7439-97-6	0.17	B
Mesityl oxide	141-79-7	200	B
Methacrylic acid	79-41-4	230	B
Methomyl	16752-77-5	8.3	B
✓Methoxychlor	72-43-5	33	B
2-Methoxyethanol (methyl cellosolve)	109-86-4	20	B
2-Methoxyethyl acetate	110-49-6	80	B
4-Methoxyphenol	150-76-5	17	B
2-Methyl-1-nitroanthraquinone	129-15-7	TBD	A
Methyl 2-cyanoacrylate	137-05-3	30	B
Methyl acetate	79-20-9	2000	B
Methyl acetylene	74-99-7	5500	B
Methyl acetylene-propadiene mixture (MAPP)	59355-75-8	5500	B
Methyl acrylate	96-33-3	120	B
✓Methyl alcohol (Methanol)	67-56-1	870	B
N-Methyl aniline	100-61-8	7.3	B
✓2-Methyl aziridine (1,2-Propylene imine)	75-55-8	16	B
Methyl azoxymethyl acetate	592-62-1	TBD	A
✓Methyl bromide (Bromomethane)	74-83-9	5.0	B
Methyl cellosolve (2-Methoxyethanol)	109-86-4	20	B
✓Methyl chloride (Chloromethane)	74-87-3	340	B
✓Methyl chloroform (1,1,1-Trichloroethane)	71-55-6	6400	B
Methyl demeton	8022-00-2	1.7	B
✓Methyl ethyl ketone (MEK; 2-Butanone)	78-93-3	1000	B
Methyl ethyl ketone peroxide	1338-23-4	5.0	B
Methyl formate	107-31-3	820	B
✓Methyl hydrazine	60-34-4	1.2	B
✓Methyl iodide (Iodomethane)	74-88-4	40	B
Methyl isoamyl ketone	110-12-3	780	B
Methyl isobutyl carbinol	108-11-2	350	B
✓Methyl isobutyl ketone (MIBK; Hexone)	108-10-1	680	B
✓Methyl isocyanate	624-83-9	0.16	B
Methyl isopropyl ketone	563-80-4	2300	B
Methyl mercaptan	74-93-1	3.3	B
✓Methyl methacrylate	80-62-6	1400	B
Methyl n-amyl ketone	110-43-0	780	B
Methyl n-butyl ketone	591-78-6	67	B
Methyl parathion	298-00-0	0.67	B
Methyl propyl ketone	107-87-9	2300	B
Methyl silicate	681-84-5	20	B
a-Methyl styrene	98-83-9	810	B
✓Methyl tert-butyl ether	1634-04-4	500	B
Methylacrylonitrile	126-98-7	9.0	B
Methylal	109-87-5	10000	B
Methylamine	74-89-5	43	B
5-Methylchrysene	3697-24-3	TBD	A
Methylcyclohexane	108-87-2	5400	B
Methylcyclohexanol	25639-42-3	780	B
o-Methylcyclohexanone	583-60-8	760	B
Methylcyclopentadienyl manganese tricarbonyl	12108-13-3	0.67	B
Methylene bis(4-cyclo-hexylisocyanate)	5124-30-1	0.18	B
4,4'-Methylene bis(2-methylaniline)	838-88-0	TBD	A

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COMPOUND NAME	CAS CODE	ASIL $\mu g/m^3$	TYPE
✓4,4'-Methylene bis(2-chloroaniline)	101-14-4	0.7	C
✓Methylene bis(phenyl isocyanate) (Methylene diphenyl diisocyanate, MDI)	101-68-8	0.2	B
✓Methylene chloride (Dichloromethane)	75-09-2	0.56	A
✓4,4-Methylene dianiline	101-77-9	2.7	C
4,4-Methylenedianiline dihydrochloride	13552-44-8	TBD	A
4-(Methylnitrosamino)-1-(3-pyridyl)-1-butanone	64091-91-4	TBD	A
Metribuzin	21087-64-9	17	B
Mevinphos	7786-34-7	0.33	B
Mirex	2385-85-5	TBD	A
Molybdenum, as Mo soluble compounds	7439-98-7	17	B
Molybdenum, insoluble compounds	7439-98-7	33	B
Monocrotophos	6923-22-4	0.83	B
Morpholine	110-91-8	240	B
5-(Morpholinomethyl)-3-(amino)-2-oxazolidinone (furaltudone)	139-91-3	TBD	A
Naled	300-76-5	10	B
Naphtha (Rubber solvent)	43102*	5300	B
✓Naphthalene	91-20-3	170	B
1-Napthylamine	134-32-7	TBD	A
✓Nickel and compounds (as nickel subsulfide or nickel refinery dust)	7440-02-2	0.0021	A
Nicotine	54-11-5	1.7	B
Nitrapyrin	1929-82-4	33	B
Nitric acid	7697-37-2	17	B
Nitric oxide	10102-43-9	100	B
5-Nitroacenaphthene	602-87-9	TBD	A
p-Nitroaniline	100-01-6	10	B
✓Nitrobenzene	98-95-3	1.7	B
✓4-Nitrobiphenyl	92-93-3	TBD	B
p-Nitrochlorobenzene	100-00-5	2.0	B
Nitroethane	79-24-3	1000	B
Nitrofen	1836-75-5	TBD	A
Nitrofurans Furazolidone	43114*	TBD	A
Nitrofurazone	59-87-0	TBD	A
1-(5-Nitrofurfurylidene)amino)-2-imidazolidinone	555-84-9	TBD	A
Nitrogen mustard N-oxide	126-85-2	TBD	A
Nitrogen mustard n-oxide hydro-chloride	302-70-5	TBD	A
Nitrogen trifluoride	7783-54-2	97	B
Nitroglycerin	55-63-0	1.5	B
Nitromethane	75-52-5	830	B
✓4-Nitrophenol	100-02-7	TBD	B
1-Nitropropane	108-03-2	20	B
✓2-Nitropropane	79-46-9	0.00037	A
N-Nitrosodiethylamine (diethylnitrosoamine) (DEN)	55-18-5	0.000023	A
✓N-Nitrosodimethylamine (Dimethylnitrosoamine)	62-75-9	0.000071	A
N-Nitrosodi-n-butylamine	924-16-3	0.00063	A
N-Nitrosodi-n-propylamine	621-64-1	TBD	A
N-Nitrosodiphenylamine	86-30-6	TBD	A
N-Nitrosomethylethylamine	10595-95-6	TBD	A
✓N-Nitrosomorpholine	59-89-2	TBD	A
N-Nitroso-n-ethylurea (NEU)	759-73-9	TBD	A
✓N-Nitroso-N-methylurea (NMU)	684-93-5	TBD	B
N-Nitroso-n-methylurethane	615-53-2	TBD	A
Nitrotoluene	88-72-2	37	B
N-(4-(5-Nitro-2-furyl)-2-thiazolyl)acetamide	531-82-8	TBD	A
Nonane	111-84-2	3500	B
Octachloronaphthalene	2234-13-1	0.33	B
Octane	111-65-9	4700	B
Oil mist, mineral	8012-95-1	17	B
Oil orange SS	2646-17-5	TBD	A
Osmium tetroxide as Os	20816-12-0	0.0053	B

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COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Oxalic acid	144-62-7	3.3	B
Oxygen difluoride	7783-41-7	0.37	B
Panfuran S (dihydroxymethyl-furatrizine)	794-93-4	TBD	A
Parafin wax fumes	8002-74-2	6.7	B
Paraquat	4685-14-7	4.5	B
✓Parathion	56-38-2	0.33	B
Pentaborane	19624-22-7	0.043	B
Pentachloronaphthalene	1321-64-8	1.7	B
✓Pentachloronitrobenzene (quintobenzene)	82-68-8	1.7	B
✓Pentachlorophenol	87-86-5	0.33	A
Pentane	109-66-0	6000	B
✓Perchloroethylene (Tetrachloroethylene)	127-18-4	1.1	A
Perchloromethyl mercaptan	594-42-3	2.5	B
Perchloryl fluoride	7616-94-6	43	B
✓Phenol	108-95-2	63	B
Phenothiazine	92-84-2	1.7	B
Phenoxybenzamine hydrochloride	63-92-3	TBD	A
Phenyl ether	101-84-8	23	B
Phenyl glycidyl ether	122-60-1	2000	B
Phenyl mercaptan	108-98-5	7.7	B
✓p-Phenylenediamine	106-50-3	0.33	B
Phenylhydrazine	100-63-0	1.5	B
Phenylphosphine	638-21-1	0.77	B
N-Phenyl-2-napthylamine	135-88-6	TBD	A
Phorate	298-02-2	0.17	B
✓Phosgene	75-44-5	1.3	B
✓Phosphine	7803-51-2	1.3	B
Phosphoric acid	7664-38-2	3.3	B
✓Phosphorus	7723-14-0	0.33	B
Phosphorus oxychloride	10025-87-3	2.1	B
Phosphorus pentachloride	10026-13-8	2.8	B
Phosphorus pentasulfide	1314-80-3	3.3	B
Phosphorus trichloride	7719-12-2	3.7	B
✓Phthalic anhydride	85-44-9	20	B
m-Phthalodinitrile	626-17-5	17	B
Picloram	1918-02-1	33	B
Picric acid	88-89-1	0.33	B
Pindone	83-26-1	0.033	B
Piperazine dihydrochloride	142-64-3	17	B
Platinum, metals	7440-06-4	3.3	B
Platinum, soluble salts as Pt	7440-06-4	0.0067	B
Polyaromatic hydrocarbons (PAH)	43116*	0.00048	A
✓Polychlorinated biphenyls (PCB)	1336-36-3	0.0045	A
✓Polycyclic Organic Matter	43108*	TBD	A
Ponceau MX	3761-53-3	TBD	A
Potassium hydroxide	1310-58-3	6.7	B
Primary Aluminum Smelter uncontrolled roof vent PAH emissions	81113*	0.0013	A
✓1,3-Propane sultone	1120-71-4	TBD	A
Propargyl alcohol	107-19-7	7.7	B
✓ß-Propiolactone	57-57-8	5.0	B
✓Propionaldehyde	123-38-6	TBD	B
✓Propoxur	114-26-1	1.7	B
Proprionic acid	79-09-4	100	B
n-Propyl acetate	109-60-4	2800	B
n-Propyl alcohol	71-23-8	1600	B
n-Propyl nitrate	627-13-4	360	B
✓Propylene dichloride (1,2-Dichloropropane)	78-87-5	4.0	C
Propylene glycol dinitrate	6423-43-4	1.1	B
Propylene glycol mono-methyl ether	107-98-2	2000	B

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COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
✓Propylene oxide	75-56-9	0.27	A
✓1,2-Propylene imine (2-Methyl aziridine)	75-55-8	16	B
Pyrethrum	8003-34-7	1.7	B
Pyridine	110-86-1	53	B
✓Quinoline	91-22-5	TBD	B
✓Quinone (1,4-Cyclohexadienedione)	106-51-4	1.5	B
✓Quintobenzene (Pentachloronitrobenzene)	82-68-8	1.7	B
✓Radionuclides (including radon)	81105*		
Resorcinol	108-46-3	150	B
Rhodium, insoluble compounds	7440-16-6	3.3	B
Rhodium, metals	7440-16-6	3.3	B
Rhodium, soluble compounds	7440-16-6	0.033	B
Ronnel	299-84-3	33	B
Rotenone	83-79-4	17	B
Rubber solvent (Naphtha)	43102*	5300	B
✓Selenium compounds, as Se	7782-49-2	0.67	B
Selenium hexafluoride, as Se	7783-79-1	0.53	B
Sesone	136-78-7	33	B
Silicon tetrahydride	7803-62-5	22	B
Silver, metals	7440-22-4	0.33	B
Silver, soluble compounds, as Ag	7440-22-4	0.033	B
Sodium azide	26628-22-8	1.0	B
Sodium bisulfite	7631-90-5	17	B
Sodium fluoroacetate	62-74-8	0.17	B
Sodium hydroxide	1310-73-2	6.7	B
Sodium metabisulfite	7681-57-4	17	B
Stibine	7803-52-3	1.7	B
Strychnine	57-24-9	0.5	B
✓Styrene	100-42-5	1000	B
✓Styrene oxide	96-09-3	TBD	B
Subtilisins	1395-21-7	0.0002	B
Sulfotep	3689-24-5	0.67	B
Sulfur hexafluoride	2551-62-4	20000	B
Sulfur monochloride	10025-67-9	18	B
Sulfur pentafluoride	5714-22-7	0.33	B
Sulfur tetrafluoride	7783-60-0	1.5	B
Sulfuric acid	7664-93-9	3.3	B
Sulfuryl fluoride	2699-79-8	67	B
Sulprofos	35400-43-2	3.3	B
2,4,5-T	93-76-5	33	B
TEPP	107-49-3	0.16	B
Tantalum, metals & oxide dusts	7440-25-7	17	B
Tellurium & compounds as Te	13494-80-9	0.33	B
Tellurium hexafluoride, as Te	7783-80-4	0.33	B
Temephos	3383-96-8	33	B
Terphenyls	26140-60-3	16	B
P(p)(ααα) Tetra-chlorotoluene	5216-25-1	TBD	A
✓2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD)	1746-01-6	0.00000003	A
1,1,2,2-Tetrachloro-1,2-difluoroethane	76-12-0	14000	B
1,1,1,2-Tetrachloro-2,2-difluoroethane	76-11-9	14000	B
✓1,1,2,2-Tetrachloroethane	79-34-5	23	B
✓Tetrachloroethylene (Perchloroethylene)	127-18-4	1.1	A
Tetrachloronaphthalene	1335-88-2	6.7	B
Tetraethyl lead, as Pb	78-00-2	0.33	B
Tetrahydrofuran	109-99-9	2000	B
Tetramethyl lead, as Pb	75-74-1	0.5	B
Tetramethyl succinonitrile	3333-52-6	9.3	B

See last page for key.

COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Tetranitromethane	509-14-8	27	B
Tetrasodium pyrophosphate	7722-88-5	17	B
Tetryl	479-45-8	5.0	B
Thallium, soluble compounds, Tl	7440-28-0	0.33	B
4,4-Thiobis(6-tert, butyl-m-cresol)	96-69-5	33	B
4,4'-Thiodianiline	139-65-1	TBD	A
Thioglycolic acid	68-11-1	13	B
Thionyl chloride	7719-09-7	16	B
Thirum	137-26-8	3.3	B
Thorium dioxide	1314-20-1	TBD	A
Tin, metals	7440-31-5	6.7	B
Tin, organic compounds, as Sn	7440-31-5	0.33	B
Tin, oxide & inorganic except SnH_4	7440-31-5	6.7	B
✓Titanium tetrachloride	7550-45-0	TBD	B
✓Toluene	108-88-3	400	B
✓2,4-Toluene diamine (2,4-Diamino toluene)	95-80-7	0.011	A
✓2,4-Toluene diisocyanate (TDI)	584-84-9	0.12	C
m-Toluidine	108-44-1	29	B
✓o-Toluidine	95-53-4	0.14	A
o-Toluidine hydrochloride	636-21-5	0.14	A
p-Toluidine	106-49-0	29	B
✓Toxaphene (Chlorinated camphene)	8001-35-2	0.0031	A
Trans-2((Dimethylamino)methylimino)-5-(2-(5-nitro-2-furyl)) vinyl-1,3,4-oxadiazole	55738-54-0	TBD	A
Tributyl phosphate	126-73-8	7.3	B
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1	27000	B
Trichloroacetic acid	76-03-9	22	B
✓1,2,4-Trichlorobenzene	120-82-1	120	B
✓1,1,1-Trichloroethane (Methyl chloroform)	71-55-6	6400	B
✓1,1,2-Trichloroethane	79-00-5	180	B
✓Trichloroethylene	79-01-6	0.59	A
Trichlorofluoromethane	75-69-4	19000	B
Trichloronaphthalene	1321-65-9	17	B
✓2,4,5-Trichlorophenol	95-95-4	TBD	B
✓2,4,6-Trichlorophenol	88-06-2	0.32	A
1,2,3-Trichloropropane	96-18-4	200	B
✓Triethylamine	121-44-8	7.0	B
Trifluorobromomethane	75-63-8	20000	B
✓Trifluralin	1582-09-8	TBD	B
Trimellitic anhydride	552-30-7	0.13	B
Trimethyl benzene	2551-13-7	420	B
Trimethyl phosphite	121-45-9	33	B
Trimethylamine	75-50-3	80	B
✓2,2,4-Trimethylpentane	540-84-1	TBD	B
2,4,6-Trinitrotoluene	118-96-7	1.7	B
Triorthocresyl phosphate	78-30-8	0.33	B
Triphenyl amine	603-34-9	17	B
Triphenyl phosphate	115-86-6	10	B
Tungsten, insoluble compounds	7440-33-7	17	B
Tungsten, soluble compounds	7440-33-7	3.3	B
Turpentine	8006-64-2	1900	B
Uranium, insoluble & soluble	7440-61-1	0.67	B
Urethan (Ethyl carbamate)	51-79-6	TBD	B
VM & P Naphtha	8032-32-4	4600	B
n-Valeraldehyde	110-62-3	590	B
Vanadium, as V_2O_5	1314-62-1	0.17	B
✓Vinyl acetate	108-05-4	200	B
✓Vinyl bromide	593-60-2	73	B
✓Vinyl chloride	75-01-4	0.012	A

See last page for key.

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COMPOUND NAME	CAS CODE	ASIL µg/m³	TYPE
Vinyl cyclohexene dioxide	106-87-6	200	B
Vinyl toluene	25013-15-4	800	B
./Vinylidine chloride (1,1-Dichloroethylene)	75-35-4	67	B
Warfarin	81-81-2	0.33	B
Welding fumes	81108*	17	B
m-Xylene a,a'-diamine	1477-55-0	0.33	B
./Xylenes (m-,o-,p-isomers)	1330-20-7	1500	B
Xylidine	1300-73-8	8.3	B
Yttrium, metals and compounds as Y	7440-65-5	3.3	B
Zinc chloride fumes	7646-85-7	3.3	B
Zinc chromates	13530-65-9	0.033	B
Zinc oxide, fumes	1314-13-2	17	B
Zirconium compounds, as Zr	7440-67-7	17	B

Type A toxics are carcinogens. The averaging time for Type A ASILs is an annual arithmetic mean.
Type B toxics are noncarcinogens. The averaging time for Type B ASILs is a 24-hour arithmetic mean.
Type C toxics are carcinogens. The averaging time for Type C ASILs is a 24-hour arithmetic mean.

TBD = To Be Determined

*PSAPCA assigned numbers

./ = EPA 112(b) hazardous air pollutant

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WSR 95-11-059
PERMANENT RULES
HIGHER EDUCATION COORDINATING BOARD
[Filed May 12, 1995, 2:56 p.m.]

Date of Adoption: April 27, 1995.

Purpose: To add osteopathic medicine as a field to be supported through the WICHE professional student exchange program in Washington state.

Citation of Existing Rules Affected by this Order: Amending WAC 250-28-020, 250-28-030, 250-28-060, and 250-28-070.

Statutory Authority for Adoption: RCW 28B.80.150 - [28B.80.]180.

Pursuant to notice filed as WSR 95-01-067 on December 15, 1994.

Effective Date of Rule: Thirty-one days after filing.

May 10, 1995
Elson S. Floyd
Executive Director

AMENDATORY SECTION (Amending Order 6-77, filed 9/6/77)

WAC 250-28-020 Purpose. The purpose of the program is to provide Washington residents with educational opportunities, otherwise unavailable to them, through preferential consideration for enrollment in institutions outside the state of Washington and through reduced obligations for tuition payments. Such benefits are available only to students enrolled in programs of optometry or osteopathic medicine.

AMENDATORY SECTION (Amending Order 8-82, Resolution No. 82-50, filed 7/20/82)

WAC 250-28-030 General administration. (1) The program shall be administered in accordance with these rules and regulations and with guidelines established by the Western ((~~Interstate~~)) Interstate Commission for Higher Education, the coordinating agency for the thirteen member states comprising the Western Regional Educational Compact.

(2) The certifying officer for the administration of the program shall be the executive ((~~coordinator of the council for postsecondary education~~)) director of the higher education coordinating board or his or her designee.

AMENDATORY SECTION (Amending Order 6-77, filed 9/6/77)

WAC 250-28-060 Program definitions. (1) "Budgetary cost" shall consist of that amount required to support an individual as a student, taking into consideration cost factors for maintaining the student's dependents. Budgets will

reflect the latest recognized cost levels for room and board, transportation, books, supplies, personal expenses and any other factors deemed necessary for consideration.

(2) "Certification" is the designation used by the state to declare that a student is eligible for support if that student is admitted to a participating institution.

(3) The term "financial need" shall be the difference between the appropriate budgetary cost and the student's total family contribution, as determined according to the ((~~uniform~~)) federal methodology system of need analysis.

(4) A "participating institution" shall be one recognized by the Western Interstate Commission for Higher Education to participate in this program.

(5) The term "Washington resident" shall mean an individual who has satisfied the requirements of domicile in the state of Washington in accordance with RCW 28B.15.011 through 28B.15.014.

(6) The definition of "satisfactory progress" toward degree completion shall be in accordance with published definitions utilized by each participating institution.

(7) "Total family contribution" for a dependent student shall mean the sum of the assumed parent((~~s~~)) and student contribution((~~, expected student summer savings, contribution from student assets and additional student resources~~)). For a self-supporting student, "total family contribution" shall mean the sum of the ((~~expected student summer savings, contribution from student assets and additional~~)) student's resources.

(8) The definition of "dependent student" and "self-supporting student" shall be in accordance with definitions utilized by the United States Office of Education for its institutionally-based financial aid programs.

AMENDATORY SECTION (Amending Order 12-79, Resolution 80-20, filed 10/11/79)

WAC 250-28-070 Award determination. (1) Student eligibility.

(a) A student certified to receive assistance through this program must meet Washington residency requirements. Residency requirements must have been satisfied by the application deadline.

(b) Each student must make separate application to an eligible participating ((~~optometry~~)) school((~~s~~)) for admission or be enrolled in a participating ((~~optometry~~)) school.

(c) Each student supported through this program must maintain satisfactory progress toward degree completion.

(2) Application procedure.

(a) Each student should obtain appropriate application and need analysis forms from the certifying officer, complete and return the forms by the appropriate deadline.

(b) Deadlines for application will be established in accordance with Western Interstate Commission for Higher Education guidelines.

(3) ((~~Ranking~~)) Allocation of awards. To the extent practicable the board will award equal numbers of eligible optometry and osteopathy students.

(4) Award priorities. ((~~In the event funding is not sufficient to award all Washington applicants studying optometry at participating institutions, the following priorities, in the order listed, shall be used in determining recipients.~~))

(a) The state will continue to support certified students as long as they continue to make satisfactory ((~~[academic]~~)) academic progress toward the award of their professional degrees.

(b) Applicants will be placed in rank order according to their financial need as determined by the ((~~uniform~~)) federal methodology system of need analysis. Those students with greater financial need will be offered priority over those with lesser financial need.

WSR 95-11-093
PERMANENT RULES
DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT
(Public Works Board)
[Filed May 19, 1995, 2:32 p.m.]

Date of Adoption: May 2, 1995.

Purpose: (A) To reflect current state organization; (B) eliminate duplicate language; and (C) specify board practices and procedures.

Citation of Existing Rules Affected by this Order: Amending WAC 399-10-010, 399-20-020, and 399-30-040.

Statutory Authority for Adoption: RCW 43.155.040(4).

Pursuant to notice filed as WSR 95-07-107, 95-07-108, and 95-07-109 on March 20, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 11, 1995
P. A. Butkus
Public Works Manager

AMENDATORY SECTION (Amending WSR 93-22-015, filed 10/26/93, effective 11/26/93)

WAC 399-30-040 Application evaluation procedure and board deliberations. (1) The board will consider and prioritize, or disapprove, all applications for loans or financing guarantees at regular or special meetings of the board. The applicant will be notified of meetings at which its application will be considered.

(2) Applications will be evaluated and prioritized in accordance with the following procedures:

(a) Staff will log in all applications as received.

(b) Staff will review all applications for compliance with the minimum qualification requirements of WAC 399-30-030(2). Jurisdictions whose applications do not meet the minimum qualification requirements will be notified in writing of the disqualification.

(c) Staff will perform a preliminary evaluation of all applications which meet the requirements of WAC 399-30-030(2). Applications will be scored according to the number of points awarded for responses provided in the statements of local management efforts and project need.

(i) ((~~Up to forty points may be awarded in the evaluation of each application's demonstration of need for the proposed project. Responses to questions 3.04, 4.01, 4.021, 4.03, 4.04, and 4.05 will be evaluated to determine this score.~~

~~(ii) Up to sixty points may be awarded in the evaluation of the applicant jurisdiction's demonstration of local management effort. Responses to questions 5.01 through 5.141~~

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~~will be evaluated to determine this score.~~)) Not less than sixty points, of a one hundred point total, shall be assigned to responses to questions identified in the application as relating to local management effort.

(ii) The remaining forty points shall be assigned to responses to questions identified in the application as relating to project need.

(d) Staff will provide the board with preliminary evaluation and scoring of the applications. All application materials will be available to the board for their deliberations. The board will develop a ranked list of projects based on the information provided to them by the staff and the applications.

(e) The board may adjust the ranked list in consideration of the following factors:

(i) Geographical balance;

(ii) Economic distress;

(iii) Type of projects;

(iv) Type of jurisdiction;

(v) Other criteria that the board considers advisable.

(f) Staff will verify critical information on each project as required by the board.

(g) In order to ensure ((~~fair treatment to all applicants~~)) fairness to all jurisdictions with applications pending before the board, the board will not accept oral or written testimony from any applicant while deliberating loan priorities, other than specific responses to information requests initiated by the board as provided in (h) of this subsection.

(h) The board may consult with officials of jurisdictions having projects submitted for funding on any issue it wishes to address.

(3) Applicants will be notified in writing of board decisions.

AMENDATORY SECTION (Amending WSR 93-22-014, filed 10/26/93, effective 11/26/93)

WAC 399-10-010 Organization and operation of the public works board. (1) The public works board, hereinafter referred to as the board, is a thirteen-member board appointed by the governor and created pursuant to RCW 43.155.030.

(2) The governor shall appoint one of the general public members of the board as chair. The board may elect such other officers for such terms as it may from time to time deem necessary in accordance with the board's bylaws.

(3) The board's staff support and office space is provided by the Department of Community, Trade, and Economic Development, ((~~whose main office is located at 906 Columbia Street S.W.,~~)) P.O. Box 48319, Olympia, Washington 98504-8319; phone ((~~(AC 206)~~)) (360) 753-2200.

((~~(4) The purpose of the board is to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects.~~))

AMENDATORY SECTION (Amending Order 85-17, filed 12/4/85)

WAC 399-20-020 Definitions. The following definitions shall apply to this chapter:

(1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the board regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combinations thereof, and all paper, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

(3) "Board" means the public works board, created pursuant to chapter 446, Laws of 1985, and shall also refer to the board's officers and staff, where appropriate.

(4) "Department" means the department of community, trade, and economic development, and shall also refer to the department's staff, where appropriate.

WSR 95-11-107
PERMANENT RULES
BUILDING CODE COUNCIL
[Filed May 23, 1995, 10:00 a.m., effective June 30, 1995]

Date of Adoption: March 10, 1995.

Purpose: To repeal the 1991 Editions of the Uniform Building Code and Building Code Standards, Uniform Mechanical Code, Uniform Fire Code and Fire Code Standards, as published by the International Conference of Building Officials.

Citation of Existing Rules Affected by this Order: Repealing chapters 51-20, 51-21, 51-22, 51-24, and 51-25 WAC.

Statutory Authority for Adoption: RCW 19.27.074.

Other Authority: RCW 19.27.020, 19.27.031, and chapter 34.05 RCW.

Pursuant to notice filed as WSR 95-04-106 on February 1, 1995.

Effective Date of Rule: June 30, 1995.

May 22, 1995
Gene Colin
Council Chair

WSR 95-11-108
PERMANENT RULES
DEPARTMENT OF HEALTH
(Health Professions Quality Assurance Division)
(Board of Massage)
[Filed May 23, 1995, 10:28 a.m.]

Date of Adoption: April 26, 1995.

Purpose: To remove language in chapter 246-830 WAC that exceeds the intent of the legislature and the authority granted in statute.

Citation of Existing Rules Affected by this Order: Repealing WAC 246-830-410; and amending WAC 246-830-230, 246-830-401, 246-830-420, 246-830-430, 246-830-440, 246-830-450, 246-830-475, 246-830-610, and 246-830-990.

Statutory Authority for Adoption: RCW 18.108.025(1).

Pursuant to notice filed as WSR 95-07-013 on March 6, 1995.

Changes Other than Editing from Proposed to Adopted Version: Certain language was rewritten to achieve consistency of terminology throughout the chapter. New definitions were rewritten to achieve acceptable wording among all constituencies, taking all suggestions into account and addressing all concerns.

Effective Date of Rule: Thirty-one days after filing.

May 22, 1995
Bruce Miyahara
Secretary

MISCELLANEOUS

NEW SECTION

WAC 246-830-005 Definitions. For the purpose of administering chapter 18.108 RCW, the following definitions shall apply:

(1) "Massage" as defined by RCW 18.108.010 includes but is not limited to the techniques of Swedish massage, bodywork, soft tissue manipulation and somatic practice and education.

(2) "Massage school" is an institution which has the sole purpose of offering training in massage therapy.

(3) "Massage program" is training in massage therapy offered by an academic institution which also offers training in other areas of study. A program is an established area of study offered on a continuing basis.

(4) "Apprenticeship program" is defined for the purposes of this chapter as training in massage administered by an apprenticeship trainer that satisfies the educational requirements for massage set forth in WAC 246-830-430, 246-830-440, and 246-830-450. This training shall be offered by an apprenticeship trainer to no more than three apprentices at one time and shall be completed within two years.

(5) "Apprenticeship trainer" is defined as a massage practitioner licensed in the state of Washington with not less than five current years of experience in full-time practice.

(6) "Apprentice" is defined as an individual enrolled in an apprenticeship program, and shall be held to the same standards as students in schools or programs.

(7) "Student" shall mean an individual currently enrolled in an approved school, program, or apprenticeship program, who is practicing massage solely for the purposes of education as is incidental to their current course work and who is not receiving compensation for said practice.

(8) "Direct supervision" shall mean a faculty member is on the premises, is quickly and easily available and the client has been examined by the faculty member at such time as acceptable massage practice requires.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-830-230 Frequency and location of examinations. (1) The board will normally conduct examinations twice a year.

(2) Written examinations will be conducted prior to the practical examinations. Applicants will be required to pass the written examination and the practical examination.

(3) Written and practical examinations will be conducted at a location within the state as determined by the secretary.

(4) A notification will be sent to the ((~~residential~~)) address of record of each examination applicant at least fifteen days prior to each applicant's scheduled examination dates. Such notification will contain appropriate instructions or information and will reflect the time, date and location at which the applicant is expected to appear for examination. Examination fees are nonrefundable. Should an applicant fail to appear for examination at the designated time and place, the applicant shall forfeit the examination fee unless he/she has notified the division of professional licensing of his/her inability to appear for the scheduled examination. Notification must reach the department of health at least five days before the designated time. With the required five days notice, a candidate may request to be rescheduled for examination any time within two years of the time he/she submitted his/her original application.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

WAC 246-830-401 Scope and purpose. (1) The minimum educational requirements for licensure to practice massage therapy ((~~and/or bodywork/somatic education~~)) in Washington is successful completion of a course of study from a massage school, program, or ((~~national educational institution~~)) apprenticeship program approved by the board.

(2) The purpose of this chapter is to provide a set of standards and procedures by which massage schools, programs, or ((~~national educational institutions~~)) apprenticeship programs may obtain approval by the board in order that graduates of those schools, programs, or ((~~national educational institutions~~)) apprenticeship programs may be permitted to take examinations for licensure.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

WAC 246-830-420 Approval of school, program, or apprenticeship program. The board may accept proof of a national professional association's approval of a school or program based on standards and requirements which are substantially equivalent to those identified in this chapter, in lieu of the requirements contained in this chapter. Approval in this manner may be requested on a form provided by the department. The board will consider for approval any school, program, or apprenticeship program which meets the requirements as outlined in this chapter.

(1) Approval of any other school or program may be requested on a form provided by the department.

(2) Application for approval of a school or program, shall be made by the authorized representative of the school or the administrator of the apprenticeship agreement.

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(3) The authorized representative of the school or the administrator of the apprenticeship program may request approval of the school or program, as of the date of the application or retroactively to a specified date.

(4) The application for approval of a school, program, or ((~~national educational institution~~)) apprenticeship program shall include, but not be limited to, documentation required by the board pertaining to: Syllabus, qualifications of instructors, training locations, and facilities, outline of curriculum plan specifying all subjects and length in hours such subjects are taught, class objectives, and a sample copy of one of each of the following exams: Anatomy, physiology, and massage therapy ((~~or bodywork/somatic education~~)).

(5) Any school, ((~~national educational institution, or~~)) program, or apprenticeship program that is required to be licensed by private vocational education (see chapter 28C.10 RCW or Title 28B RCW), or any other statute, must complete these requirements before being considered by the board for approval.

(6) The board will evaluate the application and, if necessary, conduct a site inspection of the school, ((~~national educational institution, or~~)) program, or apprenticeship program, prior to granting approval by the board.

(7) Upon completion of the evaluation of the application, the board may grant or deny approval or grant approval conditioned upon appropriate modification to the application.

(8) In the event the department denies an application or grants conditional approval, the authorized representative of the applicant's school or program may request a review within thirty days of the board's adverse decision/action. Should a request for review of an adverse action be made after thirty days following the board's action, the contesting party may obtain review only by submitting a new application.

(9) The authorized representative of an approved school, ((~~national educational institution, or~~)) program or the administrator of an apprenticeship agreement shall notify the board of significant changes with respect to information provided on the application within sixty days.

(10) The board may inspect or review an approved school, ((~~national educational institution, or~~)) program, or apprenticeship program at reasonable intervals for compliance. Approval may be withdrawn if the board finds failure to comply with the requirements of law, administrative rules, or representations in the application.

(11) The authorized representative of a school, ((~~national educational institution,~~)) program or administrator of an apprenticeship agreement must immediately correct the deficiencies which resulted in withdrawal of the board's approval.

AMENDATORY SECTION (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

WAC 246-830-430 Training. (1) A massage education program shall have a curriculum and system of training consistent with its particular area of practice. The training in massage therapy shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training in massage therapy. These five hundred hours are not to be completed in less than six months and shall consist of the following:

(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.

(b) Fifty hours of pathology including indications and contraindications ((~~to massage therapy and palpations~~)) consistent with the particular area of practice.

(c) Two hundred ((~~fifty~~)) sixty-five hours of theory and practice of massage ((~~therapy, at a minimum~~)) to include ((~~Swedish and deep tissue~~)) techniques, remedial ((~~gymnastics~~)) movements, body mechanics of the practitioner, and ((~~medical treatments~~)) the impact of techniques on pathologies. A maximum of fifty of these hours may include time spent in a student clinic. Hydrotherapy shall be included when consistent with the particular area of practice.

(d) ((~~Fifteen hours of hydrotherapy.~~

~~(e)~~)) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.

(2) To receive credit in an apprenticeship program for previous education, this education must have been completed within the five-year period prior to enrollment in the apprenticeship program.

(3) ((~~The training in a national educational institution program shall consist of a minimum of five hundred hours. An hour of training is defined as fifty minutes of actual instructional time. Certification in American Red Cross first aid and American Heart Association CPR or the equivalent shall be required. This requirement is in addition to the five hundred hours of training required of the national educational institution. These five hundred hours are not to be completed in less than six months and shall consist of the following:~~

~~(a) One hundred thirty hours of anatomy, physiology, and kinesiology including palpation, range of motion, and physics of joint function. There must be a minimum of forty hours of kinesiology.~~

~~(b) Fifty hours of pathology including indications and contraindications.~~

~~(c) Two hundred sixty-five hours of theory and practice of bodywork/somatic education, a minimum to include analysis and evaluation of the physical and/or energie structure, tissue handling techniques, body mechanics of the practitioner, and medical implications. A maximum of fifty of these hours may include time spent in a student clinic.~~

~~(d) Fifty-five hours of clinical/business practices, at a minimum to include hygiene, recordkeeping, medical terminology, professional ethics, business management, human behavior, client interaction, and state and local laws.~~

~~(e) A bodywork/somatic education program shall have a curriculum and system of training consistent with its particular area of practice.~~)) Students attending schools and programs outside the state of Washington shall acquire a working knowledge of the laws of Washington state applying to massage therapy.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

WAC 246-830-440 Curriculum—Academic standards—Faculty—Student clinic. (1) The curriculum of the school, ((~~national educational institution's~~)) program, or apprenticeship program shall be designed and presented to meet or exceed the requirement of five hundred hours.

(2) Academic standards. The school, ((~~national educational institution,~~)) program or apprenticeship trainer shall regularly evaluate the quality of its instruction and have a clearly defined set of standards of competence required of its students. Promotion to each successive phase of the program and graduation shall be dependent on mastery of the knowledge and skills presented in the program.

(3) Faculty. Apprenticeship trainers and faculty members shall be qualified by training and experience to give effective instruction in the subject(s) taught. The apprenticeship trainer and faculty should develop and evaluate the curriculum instructional methods and facilities; student discipline, welfare, and counseling; assist in the establishment of administrative and educational policies, and scholarly and professional growth. Schools, ((~~national educational institutions or~~)) programs, or apprenticeship programs shall not discriminate on the basis of sex, race, age, color, religion, physical handicap, or national or ethnic origin in the recruitment and hiring of faculty.

(4) Student clinic (optional program). The clinical facilities shall be adequate in size, number, and resources to provide for student practice of massage ((~~or bodywork/somatic education~~)) on the general public. There shall be properly equipped rooms for consultations, massage therapy or treatment, and equipment as required in the practice of massage ((~~or bodywork/somatic education~~)). A faculty member who is a licensed massage practitioner and adequately experienced in massage therapy ((~~or an instructor who is certified by the national educational institution as an instructor of bodywork/somatic education~~)) must be present in the clinic at all times the clinic is open and in direct supervision of, and have final decision in, the massage therapy ((~~or bodywork/somatic treatment~~)) which is rendered to clients by students.

AMENDATORY SECTION (Amending Order 291B, filed 7/22/92, effective 8/22/92)

WAC 246-830-450 Health, sanitation, and facility standards. All schools, programs ((~~will~~)), and apprenticeship programs shall have adequate facilities and equipment available for students learning massage therapy ((~~or bodywork/somatic education~~)). All facility equipment ((~~will~~)) shall be maintained in accordance with local rules and ordinances in addition to those imposed by chapter 246-830 WAC. Instructional and practice equipment shall be similar to that found in common occupational practice. An adequate reference library, appropriate to the subjects being taught, shall be available.

AMENDATORY SECTION (Amending WSR 94-13-181, filed 6/21/94, effective 7/22/94)

WAC 246-830-475 Qualification of program for continuing education credit. Completion of a formal program of learning which serves to enhance the professional knowledge and development of the licensee shall qualify as continuing education credit. For the purposes of this chapter, a formal program of learning shall be defined as any of the following:

(1) Attendance at a local, state, national or international continuing education program having a featured speaker;

(2) First aid, CPR or emergency related classes;

(3) Viewing of educational video tapes not to exceed four credits;

(4) Teaching a seminar for the first time, not to exceed eight hours;

(5) Business and management courses not to exceed six hours;

(6) Specialized training in an aspect of massage therapy provided by an individual who has expertise in that area, has been licensed in this state for no less than three years, and who charges a fee;

(7) Courses from a state, county, or city school or program or approved massage school, program, ((~~national education institution,~~)) or apprenticeship trainer in massage therapy or related topics; or

(8) Training provided by a health care professional certified or licensed in their area of expertise.

AMENDATORY SECTION (Amending Order 224, filed 12/23/91, effective 1/23/92)

WAC 246-830-610 Definitions. For the purposes of WAC 246-830-610 through 246-830-690, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise.

(1) "Department" means the department of health, whose address is:

Department of Health
((~~Professional Licensing Services~~))
Health Professions Quality Assurance Division
P.O. Box 1099
Olympia, Washington 98507-1099

(2) "Hospital" means any health care institution licensed pursuant to chapter 70.41 RCW.

(3) "Massage practitioner" means an individual licensed under chapter 18.108 RCW.

(4) "Mentally or physically disabled massage practitioner" means a massage practitioner who is currently mentally incompetent or mentally ill as determined by a court, or who is unable to practice massage therapy with reasonable skill and safety to patients by reason of any mental or physical condition and who continues to practice while so impaired.

(5) "Nursing home" means any health care institution which comes under chapter 18.51 RCW.

(6) "Unprofessional conduct" means the conduct described in RCW 18.130.180.

PERMANENT

AMENDATORY SECTION (Amending WSR 93-14-011, filed 6/24/93, effective 7/25/93)

WAC 246-830-990 Massage fees. The following fees shall be charged by the ((~~professional licensing services~~)) health professions quality assurance division of the department of health:

Title of Fee	Fee
Written examination and reexamination	$ 65.00
Practical examination and reexamination	50.00
((~~Reciprocity~~	~~50.00~~))
Initial license	55.00
Renewal	65.00
Late renewal penalty	50.00
Certification	15.00
Duplicate license	15.00

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 246-830-410 Definitions.

PERMANENT

WSR 95-11-119
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3858—Filed May 24, 1995, 10:10 a.m.]

Date of Adoption: May 24, 1995.

Purpose: Removes obsolete language that created additional impediment to contracting out protective payments for payees and to fully implement federal rules and statutory requirements in the protective payments program. Also, implements E2SHB 2798 (Welfare Reform) paragraph [section] 33(2), Laws of 1994, which require selected pregnant parenting teens to receive grants through a protective payee.

Citation of Existing Rules Affected by this Order: Amending WAC 388-265-1750 Protective payee fees.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: E2SHB 2798, paragraph [section] 33, Laws of 1994, RCW 74.08.280, 74.50.060(2).

Pursuant to notice filed as WSR 95-09-054 on April 18, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 24, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-265-1750 Protective payee fees. (1) The department may authorize ((~~an additional~~)) a fee((~~, not to exceed the five percent of the monthly one person payment standard,~~)) to cover approved administrative costs of the protective payee under the following conditions:

(a) The person serving as protective payee is not a friend, relative, or department employee; and

(b) The ((~~person~~)) client is eligible for:

(i) ((~~A~~)) GA-U ((~~client~~)); ((~~or~~))

(ii) ((~~An~~)) AFDC ((~~recipient~~)) when the department has determined a client is unable to manage the client's assistance funds ((~~as specified in WAC 388-265-1250.~~)); or

(iii) GA or AFDC and is a pregnant or parenting minor, and protective payment established under RCW 74.04.0052 or RCW 71.12.255.

(2) The department shall not allow the protective payee to withhold money from the client's grant for payment of the protective payee's costs or services.

(3) "Administrative costs fee" means a fixed amount per assistance recipient, as set forth in the contract between the protective payee and the department.

WSR 95-11-120
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3852—Filed May 24, 1995, 10:11 a.m., effective July 1, 1995]

Date of Adoption: May 24, 1995.

Purpose: Establishes new limited utility allowance (LUA) granted by food and consumer services waiver under 7 CFR 273.9 (d)(6)(v).

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-500 Income—Deductions.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 7 CFR 273.9 (d)(6)(v).

Pursuant to notice filed as WSR 95-09-004 on April 6, 1995.

Effective Date of Rule: July 1, 1995.

May 24, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3814, filed 12/28/94, effective 1/28/95)

WAC 388-49-500 Income—Deductions. (1) The department shall allow the following deductions when computing net income:

(a) A standard deduction of one hundred thirty-four dollars per household per month;

(b) An earned income deduction of twenty percent of gross earned income except as provided in WAC 388-49-640(8);

(c) A dependent care deduction of the actual amount incurred not to exceed two hundred dollars for each dependent ((~~age~~)) one year ((~~old~~)) of age or younger and one hundred seventy-five dollars for each other dependent when care is necessary for a household member to:

(i) Seek, accept, or continue employment; or

(ii) Attend training or education preparatory to employment.

(d) A deduction for nonreimbursable monthly medical expenses over thirty-five dollars incurred or anticipated to be incurred by an elderly or disabled household member;

(e) A deduction for legally obligated child support paid for a person who is not a member of the household;

(f) Shelter costs in excess of fifty percent of the household's income after deducting the standard, earned income, medical, child support, and dependent care deductions. The shelter deduction shall not exceed two hundred thirty-one dollars; and

(g) An excess shelter deduction for the monthly amount exceeding fifty percent of the household's monthly income after all applicable deductions for households containing an elderly or disabled person.

(2) ((~~A household's~~)) Shelter costs may include:

(a) Costs for a home not occupied because of employment, training away from the home, illness, or abandonment caused by casualty loss or natural disaster ((~~shall be allowed~~)) if the:

(i) Household intends to return to the home;

(ii) Current occupants, if any, are not claiming shelter costs for food stamp purposes; and

(iii) Home is not being leased or rented during the household's absence.

(b) Charges for the repair of the home substantially damaged or destroyed due to a natural disaster;

(c) The standard utility allowance when a household incurs any separate utility charges for heating or cooling costs or the limited utility allowance when a household incurs any separate utility charges other than telephone costs and is not entitled to the standard utility allowance. A household may incur a separate utility charge when the household:

(i) Has not yet received a billing for utilities;

(ii) Is billed monthly by the landlord for actual usage as determined through individual metering; or

(iii) Shares residence and utility costs with other persons, in which case the deduction is for the household's prorated share of the standard or limited utility allowance.

(d) Actual utility costs rather than the standard or limited utility allowance if the household is:

(i) Not entitled to the standard or limited utility allowance; or

(ii) Requesting use of actual utility bills. The department shall allow a monthly telephone standard ((~~shall be allowed~~)) for households incurring telephone expenses if the household is not entitled to claim the standard or limited utility allowance.

(e) A shelter amount of one hundred thirty-nine dollars when all household members are homeless as specified under WAC 388-49-020(36) and the household incurs or expects to incur:

(i) Monthly shelter costs no greater than one hundred thirty-nine dollars; or

(ii) Unverified shelter costs exceeding one hundred thirty-nine dollars.

(3) A household may switch between actual utility costs and the standard or limited utility allowance:

(a) At each recertification; and

(b) One additional time during each twelve-month period following the initial certification action.

(4) The department shall provide excess medical or shelter deductions effective with supplemental security income (SSI) eligibility when households:

(a) Become categorically eligible within the time limits specified under WAC 388-49-120 and 388-49-150 after a food stamp application;

(b) Receive food stamps as a nonassistance household until becoming categorically eligible; or

(c) Become categorically eligible after denial of nonassistance food stamps.

(5) The department shall not provide a deduction for that portion of a deductible expense, described under this section, paid by an excluded:

(a) Reimbursement; or

(b) Vendor payment, except for Low Income Home Energy Assistance Act (LIHEAA) payments.

((~~(6) The department shall verify:~~

~~(a) Dependent care costs including changes, except in prospective budgeting;~~

~~(b) Incurred and anticipated medical expenses and the reimbursement amounts resulting in a deduction only at application, recertification, and when the household reports a change in medical expenses; and~~

~~(c) Actual shelter costs for homeless households when such costs exceed the amount in subsection (2)(e) of this section.~~

~~(7) If medical reimbursement cannot be verified, the department shall certify the household without allowing the deduction.~~))

PERMANENT

WSR 95-11-121
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3853—Filed May 24, 1995, 10:12 a.m., effective July 1, 1995]

Date of Adoption: May 24, 1995.

Purpose: Establishes a $156 limited utility allowance granted by food and consumer service waiver under 7 CFR 273.9 (d)(6)(vi).

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-505 Utility allowances.

Statutory Authority for Adoption: RCW 74.04.050.

Other Authority: 7 CFR 273.9 (d)(6)(vi).

Pursuant to notice filed as WSR 95-09-003 on April 6, 1995.

Effective Date of Rule: July 1, 1995.

May 24, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3776, filed 8/24/94, effective 10/1/94)

WAC 388-49-505 Utility allowances. (1) The department shall:

(a) Establish ((~~an annualized standard~~)) the following utility allowances for use in calculating shelter costs((~~:~~)):

(i) A standard utility allowance for households incurring any separate utility charges for heating or cooling costs;

(ii) A limited utility allowance for households, without heating or cooling costs, incurring any separate utility charges other than telephone costs; and

(iii) A telephone allowance for households incurring separate charges for phone service and not claiming the standard or limited utility allowance.

(b) Obtain ((~~FNS~~)) food and consumer service approval of the methodology used to establish ((~~the standard~~)) utility ((~~allowance;~~

~~(c) Establish a separate annualized telephone allowance;~~

~~(d) Obtain FNS approval of the methodology used to establish the telephone allowance~~)) allowances.

(2) The ((~~annual~~)) standard utility allowance shall be two hundred twelve dollars.

(3) The limited utility allowance shall be one hundred fifty-six dollars.

(4) The ((~~monthly~~)) telephone ((~~standard~~)) allowance shall be twenty-eight dollars.

PERMANENT

WSR 95-11-122
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3856—Filed May 24, 1995, 10:14 a.m.]

Date of Adoption: May 24, 1995.

Purpose: Includes the limited utility allowance in the expedited services determination.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-080 Expedited service.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 95-09-026 on April 12, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 24, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3654, filed 10/27/93, effective 11/27/93)

WAC 388-49-080 Expedited service. (1) The department shall provide expedited service for applying households when the household:

(a) Has liquid resources of one hundred dollars or less; and

(b) Has gross monthly income under one hundred fifty dollars; or

(c) Has combined gross monthly income and liquid resources which are less than the household's current monthly rent or mortgage and either the:

(i) Standard utility allowance as set forth in WAC 388-49-505;

((~~or~~))

(ii) Limited utility allowance; or

(iii) Actual utilities costs, whichever is higher; or

(d) Includes all members who are homeless individuals; or

(e) Includes a destitute migrant or seasonal farm worker whose liquid resources do not exceed one hundred dollars.

(2) The department shall provide food stamps to households eligible for expedited service by the end of the fifth calendar day following the date the application was filed.

(3) The department shall provide food stamps to residents of drug and alcohol treatment centers and group living arrangements eligible for expedited service, by the fifth calendar day following the date of application.

(4) When certifying a household eligible for expedited service, the department shall:

(a) Verify the applicant's identity through readily available documentary evidence, or if this is unavailable, through a collateral contact; or

(b) Verify the identity of the authorized representative who applies on behalf of the household; and

(c) Make a reasonable effort to complete verification as described in WAC 388-49-110 within the expedited processing standards;

(d) Require the applicant to register for work unless exempt or the authorized representative is applying for the household;

(e) Attempt to register other nonexempt household members for work without delaying expedited benefits;

(f) Issue benefits within five calendar days for expedited service; and

(g) Assist the household in obtaining necessary verification.

(5) The department shall not limit the number of times a household may receive expedited service provided the household:

(a) Completes the postponed verification requirements; or

(b) Was certified under the thirty-day processing standard since the last expedited certification.

(6) When a household is entitled to expedited service and a waiver of the office interview, the department shall:

(a) Conduct an out-of-office interview; and

(b) Complete the application process within the expedited service standard.

WSR 95-11-123
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)

[Order 3855—Filed May 24, 1995, 10:15 a.m.]

Date of Adoption: May 24, 1995.

Purpose: Simplifies the verification policy. Deletes the mandatory verification requirements and replaces it with the general policy.

Citation of Existing Rules Affected by this Order: Amending WAC 388-49-110 Verification.

Statutory Authority for Adoption: RCW 74.04.050.

Pursuant to notice filed as WSR 95-09-034 on April 13, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 24, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3774, filed 8/24/94, effective 9/24/94)

WAC 388-49-110 Verification. (1) The department shall verify household eligibility from the following sources:

(a) Documentary evidence;

(b) Collateral contacts; and

(c) Scheduled home visits.

(2) The household has primary responsibility for providing documentary evidence. The department shall offer to assist in obtaining documentary evidence if it would be difficult or impossible for the household to obtain in a timely manner.

(3) ((~~At initial application, the department shall verify:~~

~~(a) Identity of:~~

~~(i) The person making the application; or~~

~~(ii) The authorized representative and the head of household.~~

~~(b) Immigration status of all alien household members;~~

~~(c) Residency;~~

~~(d) Gross nonexempt income;~~

~~(e) Actual utility expenses in excess of the standard utility allowance as specified in WAC 388-49-505;~~

~~(f) Medical care expenses as specified under WAC 388-49-500 (6) and (7);~~

~~(g) Dependent care expenses as specified under WAC 388-49-500 (6)(a);~~

~~(h) Disability;~~

~~(i) Resources of an alien's sponsor; and~~

~~(j) Actual shelter costs for households where all members are homeless as specified under WAC 388-49-020(36), if the shelter costs exceed the shelter amount as specified under WAC 388-49-500.~~

~~(4) At recertification, the department shall verify:~~

~~(a) A change in income or actual utility expenses claimed by a household if the source has changed or the amount has changed by more than twenty-five dollars since the verification was completed; and~~

~~(b) Medical care expenses as specified under WAC 388-49-500 (6) and (7).~~

~~(5) The department shall verify for monthly reporting households the following factors on a monthly basis:~~

~~(a) Gross nonexempt income;~~

~~(b) Utility expenses unless the standard utility allowance is used;~~

~~(c) Alien status, Social Security number, and residency, if changed;~~

~~(d) All other questionable information.~~

~~(6) The department shall verify questionable information~~)) The department shall verify eligibility factors as deemed necessary by the department at certification, recertification, monthly reporting, and change of circumstance.

WSR 95-11-124
PERMANENT RULES
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
(Public Assistance)
[Order 3857—Filed May 24, 1995, 10:16 a.m.]

Date of Adoption: May 24, 1995.

Purpose: Clarifies language and adds new provisions per federal statute.

Citation of Existing Rules Affected by this Order: Amending WAC 388-218-1200 Exempt income types, 388-218-1350 Deductible self-employment expenses, 388-218-1450 Thirty dollars and one-third disregard, 388-218-1605 Allocation of income—Multiple assistance units, 388-218-1610 Allocation of parental income and support, 388-218-1630 Allocation of assistance unit income for support of legal dependents, 388-218-1680 Allocation of income to pregnant women, and 388-218-1730 One hundred percent of need test.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: P.L. 103-286 and RCW 74.08.090; Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act.

Pursuant to notice filed as WSR 95-09-035 on April 13, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 24, 1995
Jeanette Sevedge-App
Acting Chief
Office of Vendor Services

AMENDATORY SECTION (Amending Order 3759, filed 7/27/94, effective 9/1/94)

WAC 388-218-1200 Exempt income types. The department shall exempt the following from consideration as income when determining need:

(1) The income of a supplemental security income recipient. The department shall not count nonrecurring lump sum SSI retroactive payments made to an AFDC client as income in the month paid nor in the next following month;

(2) AFDC benefits resulting from a court order modifying a department policy;

(3) Title IV-E, state and/or local foster care maintenance payments;

(4) Adoption support payments if the adopted child is excluded from the assistance unit;

(5) Payment under Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, P.L. 91-646, section 218;

(6) The food coupon allotment under Food Stamp Act of 1977;

(7) Compensation to volunteers under the Domestic Volunteer Act of 1973, P.L. 93-113, Titles I, II, and III;

(8) Benefits under women, infants and children program (WIC);

(9) Food service program for children under the National School Lunch Act of 1966, P.L. 92-433 and 93-150;

(10) Energy assistance payments;

(11) Housing and Urban Development (HUD) community development block grant funds that preclude use for current living costs;

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(12) Restitution payments made under the Wartime Relocation of Civilians Act, P.L. 100-383. The department shall disregard income and resources derived from restitution payments;

(13) A previous underpayment of assistance under WAC 388-33-195. The department shall not consider such retroactive corrective AFDC payments as income in the month paid nor in the next following month;

(14) Payments made from the Agent Orange Settlement Fund or any other funds established to settle Agent Orange liability claims, P.L. 101-201. The effective date of the disregard is retroactive to January 1, 1989;

(15) Payments made under the Disaster Relief Act of 1974, P.L. 93-288, as amended by Disaster and Relief and Emergency Assistance Amendments of 1988, P.L. 100-707. This applies to assistance issued by federal, state, or local governments or by a disaster assistance organization;

(16) Payments from the Radiation Exposure Compensation Act, P.L. 101-426, made to an injured person, surviving spouse, children, grandchildren, or grandparents;

(17) Earned income tax credit; ((~~and~~))

(18) Payments made to victims of Nazi persecution, under public law P.L. 103-286; and

(19) Payments made from the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act trust fund, pursuant to P.L 93-134. Funds paid, interest or investment income earned on such funds, and any payment authorized by the tribe or the Secretary of the Interior are not counted as income.

(20) Income specifically excluded by any other federal statute from consideration as income.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1350 Deductible self-employment expenses. The department shall consider the following items as deductible business expenses in a self-employment enterprise:

(1) Rental of business equipment or property.

(2) Utilities.

(3) Postage.

(4) Telephone.

(5) Office supplies.

(6) Advertising.

(7) Insurance.

(8) Legal, accounting, and other professional fees.

(9) The cost of goods sold, including wages paid to employees producing salable goods, raw materials, stock, and replacement or reasonable accumulation of inventory, provided inventory has been declared exempt on the basis of an agreed plan pursuant to WAC 388-216-2500.

(10) Interest on business indebtedness.

(11) Wages and salaries paid to employees not producing salable goods.

(12) Commissions paid to agents and independent contractors.

(13) ((~~Transportation essential to the business may be computed according to the actual documented work related cost of operating the vehicle.~~

~~(a) The total operating cost of a vehicle shall be~~)) Documented and verified costs of self-employment business-related transportation. These costs are limited to gas, oil, and fluids; necessary services and repairs; replacement of worn items such as tires; registration and licensing fees; and interest on automobile loans.

(a) The client may choose:

(i) To itemize the actual operating cost of a vehicle; or

(ii) A cost per mile established by the department using a prevailing rate based on market standards.

(b) ((~~When the client chooses, eight cents per mile shall be allowed to cover the work related costs of gas, oil, and fluids.~~

~~(c)~~)) The cost of tolls and parking related to the business shall be deducted as a business expense.

((~~(d)~~)) (c) If a vehicle is needed for both business and private purposes, the mileage and expenses attributable to the business must be documented in a daily log and is subject to verification by the department.

((~~(e)~~)) (d) Transportation to and from the place of business is not a business expense, but is a personal work expense and is covered by the work expense deduction.

(14) Nonpersonal taxes on the business and business property, including the employer's share of federal Social Security taxes on business employees and state and federal unemployment insurance contributions, if any. The self-employed person's personal income taxes and self-employment taxes are not business deductions, but are work expenses covered by the work expense deduction.

(15) Repairs to business equipment and property, excluding vehicles. An expenditure to maintain property in its usual working condition is deductible as a repair.

(16) Other expenditures reasonable and necessary to the efficient and profitable operation of the self-employment enterprise.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1450 Thirty dollars and one-third disregard. (1) For each nonstudent dependent child and adult found otherwise eligible to receive assistance or having received assistance in one of the four prior months, disregard thirty dollars and one-third of the remainder not already disregarded.

(2) The thirty dollars and one-third disregard shall be applied for a maximum of four consecutive months and cannot be applied again until the client has been a nonrecipient for twelve consecutive months.

(3) For clients participating in a work supplementation program, such as EPP, the thirty dollars and one-third disregard shall be applied for a maximum of nine consecutive months and cannot be applied again until the client has been a nonrecipient for twelve consecutive months.

(4) Months in which the client received the thirty dollars and one-third exemption in another state shall not apply toward the applicable time limits.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1605 Allocation of income—Multiple assistance units. (1) The department shall allocate all nonexempt net income possessed by an assistance unit

member to meet the needs of the assistance unit, except when families are comprised of two or more assistance units.

(2) The department shall allocate an equal portion of the total nonexempt net community income, including income in-kind, to meet the needs of each assistance unit unless:

(a) The family prefers some other division; and

(b) The preferred division does not increase the total amount of assistance, excluding medical care.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1610 Allocation of parental income and support. (1) Support payments made by or in behalf of an absent parent are income to the child(ren) and are to be treated in accordance with WAC 388-14-210 Support payments to office of support enforcement.

(2) When the custodial parent is not included in the assistance unit because of noncompliance with WAC 388-215-1400 Support enforcement—Assignment of support rights—Cooperation with office of support enforcement or WAC 388-47-210, JOBS program—Sanctions for refusal or failure to participate:

(a) The income of such parents is ((~~allocated~~)) budgeted according to WAC 388-218-1630 Allocation of income for support of legal dependents;

(b) Support payments paid directly to the parent and not forwarded to the office of support enforcement are income to the child(ren) and are to be taken into account in determining the need of the assistance unit.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1630 Allocation of assistance unit income for support of legal dependents. (1) The department shall ((~~allocate~~)) budget the income of a parent or stepparent included in the assistance unit to meet the needs of the assistance unit after ((~~deducting~~)) allocating an amount for:

(a) ((~~Applicable work expense disregards to meet the cost of employment;~~

~~(b)~~)) Support of other dependents not eligible for inclusion in the assistance unit for factors other than sanction or noncooperation, not to exceed the appropriate payment standard for an assistance unit of the same composition;

(((~~c~~))) (b) Court or administratively ordered support for a legal dependent ((~~not living in the parent or stepparent's home~~)), not to exceed the lesser of the amount actually paid or the appropriate need standard for each dependent;

(2) The department shall consider a dependent to be one who:

(a) Is or could be claimed for federal income tax purposes by the parent or stepparent; or

(b) The parent or stepparent is legally obligated to support.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1680 Allocation of income to ((~~women in third trimester of pregnancy~~)) pregnant women. (1) The department shall use the need standard that reflects the number of people in the family as though the child were born when applying the WAC 388-218-1720 One hundred eighty-five percent of need test. Include the father when residing in the client's home.

(2) The department shall use the payment standard that reflects the number of people in the family as though the child were born when applying the WAC 388-218-1740 Payment standard test. Include the father when residing in the client's home.

(3) The department shall follow the rules specified in WAC 388-218-1640 Allocation of nonassistance unit income for support of legal dependents, for the allocation of income to a ((~~woman in the third trimester of pregnancy~~)) pregnant woman when the parents are married and the father resides in the client's home.

AMENDATORY SECTION (Amending Order 3732, filed 5/3/94, effective 6/3/94)

WAC 388-218-1730 One hundred percent of need test. (1) The assistance unit's monthly nonexempt unearned income plus monthly earned income, less allowable disregards, shall be below the appropriate state need standard plus additional requirements.

(2) This test does not apply if the assistance unit received ((~~assistance~~)) AFDC in one of the four months before the month of application.

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WSR 95-11-127
PERMANENT RULES
NORTHWEST AIR POLLUTION AUTHORITY
[Filed May 24, 1995, 10:50 a.m.]

Date of Adoption: May 11, 1995.

Purpose: To amend, add, and delete subsections of the NWAPA regulation to reflect changes in the state and federal rules and to clarify requirements that will promote effective air pollution control.

Citation of Existing Rules Affected by this Order: Amending sections 102, 104, 322, 324, 341, 342, 451, 455, and 520.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Pursuant to notice filed as WSR 95-07-116 on March 21, 1995.

Changes Other than Editing from Proposed to Adopted Version: Subsection 102.7, this section allows the control officer to approve alternate compliance strategies if the safety of the individuals involved in carrying compliance requirements is compromised; subsection 104.2, recently promulgated federal rules will be adopted by reference; subsection 322.9, new wording exempts portable sources operating in the NWAPA jurisdiction for less than ninety days from registration/new source review as long as we are notified in advance; subsection 322.21, portable sandblasting operations are exempt from registration/new source review provided that the NWAPA is notified in advance; subsection 322.22, portable asphalt plants, portable soil treatment units, and portable rock crushers operating for less than ninety days in a calendar year in the NWAPA jurisdiction and possessing a valid Order of Approval to Operate from

another Washington state air permitting agency are exempt from registration/new source review; subsection 322.23, wording is modified to give the control officer some discretion in determining the registration classification of intermittent sources operating in the NWAPA jurisdiction; subsection 324.115, Class "C" registered sources will be exempt from all registration fees; subsection 324.225, new source review fees of $100 are now established for autobody spray coaters and commercial dry cleaners; subsection 324.26, new source review fees may be reduced for existing sources undertaking pollution prevention or voluntary emission reduction projects; subsection 341.1, wording changed to acknowledge that there are both registered and air operating permit sources within the NWAPA jurisdiction; 341.2, sources will now be required to notify the NWAPA within a ten day period prior to a scheduled shutdown or start-up; subsection 342.1, the word "registered" is deleted to acknowledge that other types of source classifications are recognized by the NWAPA; subsection 451.12, section for exemption from opacity standard for soot blowing or grate cleaning is reworded for clarity; subsection 455.15, new subsection allows the control officer to approve an alternate oxygen correction factor if it can be demonstrated that another correction factor is more representative of normal operations and the emissions will not cause a violation of any ambient air quality standard. The source must request the alternate correction factor; and subsection 520, delete the thirty days in a calendar year when sulfur content in fuel can exceed the standard.

Effective Date of Rule: Thirty-one days after filing.

May 23, 1995
James Randles
for Terryl L. Nyman
Air Pollution Control Officer

Reviser's note: The material contained in this filing will appear in the 95-12 issue of the Register as it was received after the applicable closing date for the issue for agency-typed material exceeding the volume limitations of WAC 1-21-040.

WSR 95-11-135
PERMANENT RULES
OFFICE OF THE SECRETARY OF STATE
[Filed May 24, 1995, 11:45 a.m.]

Date of Adoption: May 24, 1995.

Purpose: Implement the consolidation of reporting by charitable organizations and trusts required by chapter 471, Laws of 1993, as amended by chapter 287, Laws of 1994; clarify record-keeping, bonding, and auditing requirements; and making filing procedures consistent.

Citation of Existing Rules Affected by this Order: Amending WAC 434-120-025, 434-120-125, 434-120-140, 434-120-145, 434-120-215, 434-120-260, 434-120-265, 434-120-300, 434-120-305, 434-120-310, 434-120-330, and 434-120-335.

Statutory Authority for Adoption: RCW 11.110.070 and 19.09.315.

Pursuant to notice filed as WSR 95-08-072 and 95-08-073 on April 5, 1995.

Effective Date of Rule: Thirty-one days after filing.

May 24, 1995
Donald F. Whiting
Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-025 Definitions. (1) "Charitable organization" ((~~as defined in RCW 19.09.020(2) shall be referred to as "charitable organization" or "organization" for the purposes of these regulations~~)) means any entity that solicits or collects contributions from the general public where the contribution is or is purported to be used to support a charitable activity, but does not include any commercial fund-raiser or commercial fund-raising entity as defined in this section. "Charitable":

(a) Is not limited to its common law meaning unless the context clearly requires a narrower meaning;

(b) Does not include religious or political activities; and

(c) Includes, but is not limited to, educational, recreational, social, patriotic, legal defense, benevolent, and health causes.

(2) "Charitable trust" means any real or personal property right held by an entity or person that is intended to be used for a charitable purpose(s). ((~~When the purpose(s) is to distribute exclusively to individuals or organizations expressly named in the governing instrument, it is not a charitable trust for the purposes of these regulations.~~)) The trust may be created by will, deed, articles of incorporation, or other governing instrument. It may be express or constructive.

(3) "Compensation," ((~~defined in RCW 19.09.020(3), for the purposes of these regulations~~)) means salaries, wages, fees, commissions, or any other remuneration or valuable consideration. Compensation shall not include reimbursement for expenses incurred and documented or noncash awards or prizes, valued at one hundred dollars or less, given annually to each volunteer.

(4) "Revenue" means all proceeds from charitable solicitations or from similar activities which would be charitable solicitations except that they are exempt from chapter 19.09 RCW by virtue of being regulated by the gambling commission.

(5) "Solicitation," means any oral or written request for a contribution, including the solicitor's offer or attempt to sell any property, rights, services, or other thing in connection with which:

(a) Any appeal is made for any charitable purpose; or

(b) The name of any charitable organization is used as an inducement for consummating the sale; or

(c) Any statement is made that implies that the whole or any part of the proceeds from the sale will be applied toward any charitable purpose or donated to any charitable organization; or

(d) The solicitation shall be deemed completed when made, whether or not the person making it receives any contribution or makes any sale.

(6) "Solicitation," as defined in RCW 19.09.020(15), for the purposes of these regulations, shall not include any of the following:

(a) An application or request for application for a grant, contract, or similar funding from any foundation, corporation, governmental agency or similar entity which has an established application and review procedure for reviewing such requests;

(b) The attempt to sell a service or good which constitutes the basis of the charitable organization's activities under which the federal income tax exemption was granted, or is the primary purpose for the existence of the charitable organization. This includes, but is not limited to, admission to a theatrical or other performance presented by a charitable organization that is a drama, musical, dance, or similar group and fees for services such as a hospital provides or use of the charitable organization's facilities; or

(c) Bingo activities, raffles, and amusement games conducted under chapter 9.46 RCW and applicable rules of the Washington state gambling commission ((~~(RCW 19.09.020)~~)).

(7) "Cost of solicitation" means and includes all direct and indirect costs, expenditures, debts, obligations, salaries, wages, commissions, fees, or other money or thing of value paid or incurred in making a solicitation. Cost of solicitation does not include the reasonable purchase price to the charitable organization of any tangible goods or services resold by the organization as part of its fund-raising activities.

(8) "Commercial fund-raiser" or "commercial fund-raising entity" means any entity that for compensation or other consideration within this state directly or indirectly solicits, receives or raises contributions for or on behalf of any charitable organization or charitable purpose, or that is engaged in the business of or is held out to persons in this state as independently engaged in the business of soliciting or receiving contributions for such purposes. However, the following shall not be deemed a "commercial fund-raiser" or "commercial fund-raising entity":

(a) Any entity that provides fund-raising advice or consultation to a charitable organization within this state but neither directly nor indirectly solicits or receives or raises any contribution for or on behalf of any such charitable organization; or

(b) A bona fide officer or other employee of a charitable organization.

NEW SECTION

WAC 434-120-103 Required filings. (1) A charitable organization complies with the filing and registration requirements of this chapter by filing the following documents with the secretary of state at the times, and in the manner, prescribed by these rules:

(a) Uniform Registration Statement - Charitable/Public Benefit Form. This form is used as an original registration form, as well as a periodic renewal form. The purpose of this report is to provide basic information about the organization, as described in RCW 19.09.075; and

(b) Solicitation report. This form is filed periodically by all charitable organizations, except those exempted by these rules. The purpose of this report is to provide information regarding solicitations conducted during the reporting period, of an informational nature to the public. Solicitation reports are filed as part of a periodic renewal, and as provided by WAC 434-120-105(4) for newly registered organizations; and

(c) All contracts between the commercial fund-raiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240.

(2) The financial statement required by WAC 434-120-130 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.

(3) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-125 ((~~Financial reporting adjustments.~~)) Record retention. ((~~For purposes of preparing the solicitation report required by RCW 19.09.075(7) and WAC 434-120-105 (5)(b)(iv) the following information shall be included:~~

~~(1) A charitable organization financial report shall show the surplus, fund balance, general reserve, or similar account from the previous year. The report should note whether any or all of this money was expended in the current year and how.~~

~~(2) Funds irrevocably reserved to a capital acquisition or other legally binding reserve account shall be reported as disbursed for the stated purpose in the year of deposit to the reserve account. These funds shall not be reported as expended when withdrawn or liquidated from the reserve account at a later date.~~

~~(3) A charitable organization shall consolidate all expenses into the following three categories: direct expenses and administrative or indirect expenses as determined by GAAP; the total of the "reasonable purchase price(s) to the organization of any tangible goods or services resold by the organization as part of its fund raising activities" as described in RCW 19.09.020(5); and amount paid to and to be paid to commercial fund raisers. These shall be subtracted from the gross amount of annual contributions collected. Compute the information in the following manner:~~

~~(a) Determine the total annual gross revenue (TGR);~~

~~(b) From the TGR subtract the total of all purchases made for resale;~~

~~(c) From the balance remaining after completing (b), subtract the amounts paid to commercial fund raisers;~~

~~(d) From the balance obtained in part (c) subtract the costs of solicitation described in RCW 19.09.020(5), which are comprised of the direct expenses and indirect or administrative expenses of the organization (excluding amounts paid to commercial fund raisers). The final result is the net revenue.~~

~~(e) Subtract from the net revenue the amount expended directly for charitable purposes or distributed to other charitable organizations and the amount reserved for future use showing each as a separate line item.~~

~~(f) Compute the percentage of funds raised that were directed to charitable purposes. Use the amount of money directed toward the charitable purposes as a percentage of~~

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~~the TGR in step (a) or, if there were purchases made for resale, as a percentage of the figure obtained in step (b).~~

~~(3)~~)) Organizations shall keep, for a three-year period, the annual ((~~financial~~)) solicitation reports and the supporting documents including books, ledgers, prepared statements, compilations, reviews, or audit reports, or any other records on which they were based, making them available to the attorney general or county prosecutor on request.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-140 How and when. (1) Original registration: An entity required to register as a charitable organization shall complete the form described in WAC 434-120-105 and submit it with the fee in WAC 434-120-145 prior to conducting any solicitation;

(2) Annual renewal:

(a) An entity shall renew its charitable ((~~organization~~)) registration at the same time as it submits its annual corporation renewal or nonprofit annual report, or, if not a corporation, the last day of the same month of the year as the entity's original registration for charitable solicitation purposes.

(b) The renewal shall include the same information required for registration as described in WAC 434-120-105 and RCW 19.09.075. The solicitation report will be based on the ((~~most recently completed fiscal year or~~)) most recent filing with the Internal Revenue Service((~~, whichever was prepared or filed later~~)) or if the organization does not file with the Internal Revenue Service, the solicitation report will be based on the most recently completed fiscal year. No organization may submit the same fiscal information for two consecutive years.

(c) The renewal cycle shall begin on July 1, 1994, for all organizations whose corporation renewal is due July 1, 1994, or later in the year. All charitable organizations whose corporation renewal comes due in the months of January through June shall renew in the new cycle beginning January 1995. The 1994 renewal shall be effective, without additional fees, until the new 1995 renewal date.

(3) Organizations not required to file a solicitation report with the secretary, may renew registrations every other year unless revenue is more than twenty-five thousand dollars in the previous registration or renewal period.

(((~~3~~))) (4) Change in status, notification: An organization shall notify the corporations division of a change in principal officer, owner, or Washington representative or any other information filed under RCW 19.09.075 or WAC 434-120-105, within thirty days after the change.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-145 Fees. (1) Original registration: Entities registering as charitable organizations shall pay a fee of twenty dollars for the first year of registration. The fee shall be waived for those who first register under this act at the same time as filing nonprofit incorporation papers.

(2) Annual reregistration: Organizations reregistering shall pay a fee of ten dollars. If reregistering at the same time as filing nonprofit corporation annual reports, the organization shall pay a combined fee of fifteen dollars. If an organization files renewals under the Nonprofit Corporation Act, the Charitable Solicitations Act, and the Charitable Trusts Act, the fee shall be thirty dollars for all three. The fee shall be thirty dollars if renewing under the Charitable Trusts Act, the Charitable Solicitations Act, the public benefits provision, and filing a nonprofit corporation annual report.

(3) Information changes: Organizations filing changes of information described in WAC 434-120-220(3), shall pay a fee of ten dollars for each submittal of change(s).

(4) Photocopy fees: For copy of a charitable organization registration form or letter, including the finance and solicitation reports, the fee is ((~~ten~~)) five dollars.

(5) Expedited service fees: For in-person service at the counter, the fee is twenty dollars for one or more transactions in each charitable organization file requested.

NEW SECTION

WAC 434-120-200 Required filings. (1) A commercial fund-raiser complies with the filing and registration requirements of this chapter by filing the following documents with the secretary of state at the times, and in the manner, prescribed by these rules:

(a) Commercial fund-raiser registration form. This form is used as an original registration form, as well as an annual renewal form. The purpose of this report is to provide basic information about the organization, as described in RCW 19.09.079;

(b) Solicitation report. These reports are filed periodically by all commercial fund-raisers, except those exempted by these rules. The purpose of these reports are to provide information regarding solicitations conducted during the reporting period, of an informational nature to the public. These reports must be filed in the time and manner specified in WAC 434-120-215;

(c) All surety bonds required by WAC 434-120-260; and

(d) All contracts between the commercial fund-raiser and all charitable organizations for which it solicits, as provided by WAC 434-120-240.

(2) The financial statement required by WAC 434-120-255 does not need to be filed with the office of the secretary of state. The purpose of this statement is to verify and support the information filed in the solicitation report. This statement must be available upon request as provided in this chapter.

(3) This section is intended to be explanatory of other rules in this chapter, and not to modify or diminish the requirements of those rules.

AMENDATORY SECTION (Amending WSR 94-01-004 and 94-02-011, filed 12/1/93 and 12/22/93, effective 1/1/94 and 1/23/94)

WAC 434-120-215 Form. Commercial fund-raisers registering under ((~~the~~)) this act shall use the commercial fund-raiser registration form available ((~~in the Office of~~)) from the corporations division ((~~or may provide the required information topically sectioned in the exact following manner~~)). The secretary's acceptance of a registration or other filing which violates these rules or chapter 19.09 RCW shall not excuse the violation. A registration form is not

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complete, and will not be accepted for filing, unless it includes:

((~~(1) Section I.~~)) (a) The organization's name, physical and mailing address, and telephone number of the commercial fund-raising entity((~~,~~)) and all names and addresses including without limitation all public or private postal box addresses under which contributions are solicited.

(b) The name(s)((~~,~~)); address(es)((~~,~~)); and telephone number(s); of the individual(s); responsible for the activities of the entity in Washington; and a list of the states and Canadian provinces in which the entity has solicited funds;

(2) ((~~Section II.~~)) The ((~~name, address~~)) name(s), address(es), and telephone number(s) of the owner(s) and principal officer(s) of the commercial fund-raising entity; and the names of the three officers or employees receiving the greatest amount of compensation from the organization;

(3) ((~~Section III.~~)) The name and address of the entity that prepares((~~, compiles~~)), reviews, or audits the financial statement ((~~in the form of a solicitation report~~));

(4) ((~~Section IV.~~))

(a) For an entity that has never before registered under the solicitations act, ((~~a financial statement in the form of~~)) a solicitation report based on the aggregate financial fund-raising conducted in other states or, if an accounting year has not been completed in any state, ((~~a realistic, good faith estimate of anticipated revenue, expenditures, and distributions to charitable organizations based on contracts in existence; and for a reregistrant a solicitation report based on the most recently completed fiscal year. The report shall contain the following information:~~

~~(i) The number and types of fund raising services to be conducted;~~

~~(ii) The name of each charitable organization to whom this entity will provide fund raising services;~~

~~(iii) The name, address, and telephone number of any other commercial fund raiser to be retained in the conduct of providing fund raising services;~~

~~The commercial fund raiser who has not registered under this act before and filing~~)) a solicitation report ((~~based on estimates, shall file,~~)) filed by the end of the ((~~seventh~~)) fourth operating month which reports actual financial information regarding the organization's first three months of operations in Washington, a ((~~six~~)) three-month report containing actual financial information.

(b) For ((~~reregistrants, a financial statement in the form of~~)) those who have previously conducted solicitations in Washington state, a solicitation report based on the previous accounting year. The report shall contain the following information:

(i) The number and types of fund-raising services conducted;

(ii) The name of each charitable organization to whom this entity has provided fund-raising services;

(iii) The total value of contributions received on behalf of each charitable organizations by or as response to the commercial fund-raiser, its affiliate or another entity retained by the commercial fund-raiser;

(iv) The actual amounts of money raised for each charitable organization after the fund-raising costs paid by each charitable organization has been deducted in accordance with the written agreement made prior to the solicitation;

(v) The name, address, and telephone number of any other commercial fund-raiser retained in the conduct of providing fund-raising services;

(5) ((~~Section V.~~))

(a) For funds that were raised and paid on a net revenue basis to each contracting organization or for each campaign in which the charitable organization paid any portion of the expenses, ((~~a financial statement in the form of~~)) a solicitation report consistent with the audited annual financial statement signed by the entity who is listed as required by subsection (3) of this regulation; or

(b) For funds that were raised and paid on a percentage of gross revenue basis, ((~~a financial statement in the form of~~)) a solicitation report, which shows the total revenue from each campaign conducted for each individual organization and the amount received by each charitable organization. This report must be verified and signed by the entity, who is required to be listed in subsection (3) of this section, and the president or treasurer of the charitable organization for ((~~whom~~)) which the funds were raised. The fund-raiser shall submit individual solicitation reports for each campaign.

(6) ((~~Section VI.~~)) An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings.

All commercial fund-raiser registrations shall be signed by an officer or owner of the commercial fund-raiser.

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 434-120-218 Solicitation reports by commercial fund-raisers who subcontract. (1) A commercial fund-raiser who engages another registered commercial fund-raiser to solicit funds or conduct a solicitation on behalf of a charitable organization is responsible for reporting and shall include the total contributions and the total expenses related to that campaign in its solicitations report and financial statement.

(2) If a reporting commercial fund-raiser's contributions and expenses for a campaign are also included in another commercial fund-raiser's solicitations report, the reporting fund-raiser shall list in its report the name of that fund-raiser, the name of the charitable organization, the dates of the campaign, and the total contributions and expenses for which it was responsible.

(3) Regardless of whether a commercial fund-raiser which acts as a contractor reports the contributions and expenses of its subcontractor(s), each subcontracting commercial fund-raiser, must independently register, post bond, report its own contributions and expenses, and comply with all other provisions of these rules and chapter 19.09 RCW as they apply to commercial fund-raisers.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-260 Surety bonds. (1) In compliance with RCW 19.09.190 a registering commercial fund-raiser, as principal, shall submit proof of execution of a surety bond with one or more sureties whose liability in the aggregate

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will equal at least fifteen thousand dollars((;)). Except as provided in WAC 434-120-265, commercial fund-raisers must provide proof of bonding in the following year if the commercial fund-raiser engages, or plans to engage, in one or more of the following practices:

(a) The fund-raiser directly or indirectly receives contributions from the public on behalf of any charitable organization; or

(b) The fund-raiser is compensated based upon funds raised or to be raised, number of solicitations made or to be made, or any similar method, even if the fund-raiser does not directly or indirectly receive the contributions; or

(c) The fund-raiser incurs or is authorized to incur expenses on behalf of the charitable organization; or

(d) Has not been registered with the secretary as a commercial fund-raiser for the preceding accounting year shall execute a surety bond as principal with one or more sureties whose liability in the aggregate as such sureties will equal at least fifteen thousand dollars.

(2) A commercial fund-raiser is considered to solicit or receive contributions from the public directly if they are solicited or received by the fund-raiser or by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members. Contributions are solicited or received indirectly if they are solicited or received by:

(a) Any organization owned or controlled by the commercial fund-raiser or owned or controlled by any officer, employee, principal, or shareholder of the commercial fund-raiser, including immediate family members; or

(b) Any person or organization, other than the charitable organization for which funds are solicited, with which the commercial fund-raiser has a contractual relationship governing the solicitation or receipt of contributions. Solicitations shall be deemed received by the fund-raiser if they are deposited into bank accounts wholly or partially owned or controlled by the commercial fund-raiser or other entity with which the commercial fund-raiser maintains a contractual relationship.

((~~(2)~~)) (3) If a commercial fund-raiser does business under more than one name, each name used by that entity must be registered and bonded separately.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-265 Exemption from surety bond. A commercial fund-raiser who can be classified as "product seller," as defined in RCW 7.72.010, may be exempt from the surety bond requirement in WAC 434-120-260 when:

(i) All proceeds for the life of the entity, including shareholder dividends, are dedicated to a single registered charitable trust or single registered charitable organization;

(ii) A written contract with the charitable trust or organization stating the agreement of the receiver to accept and the product seller to donate all proceeds is executed;

(iii) The contract is filed by the product seller with the corporations division;

(iv) "All proceeds" is the remainder left after subtracting indirect and direct expenses of bringing the product to the buyer; and

(v) An annual ((~~financial statement in the form of a~~)) solicitation report, signed by the entity making the audit report and the president, is filed with the corporations division (see WAC 434-120-215(4)).

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-300 Who shall register. (1) Any trustee as defined in RCW 11.110.020 holding property in trust for a public charitable purpose and any corporation formed for the administration of a charitable trust or holding assets subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes shall register with the office of the secretary of state, corporations division.

(2) Exempt from registration under the Trust Act are the following:

(a) Any trustee making distributions only to individuals or organizations expressly named in the governing instrument or mere titleholders, custodians, or depositaries of property held for charitable purposes who have no powers or duties to administer such property;

(b) Governmental bodies such as the United States, any state, territory, or possession of the United States, the District of Columbia, Puerto Rico, or any of their agencies or governmental subdivisions;

(c) Religious bodies incorporated as tax exempt religious organizations, and subsidiary organizations under their auspices including but not limited to:

(i) Charitable agencies or organizations affiliated with and forming an integral part of the religious body, or operated, supervised, or controlled directly by the religious body; or

(ii) Any officer of a religious body holding property for religious purposes;

To be exempt under this act, a newly formed religious body, or subsidiary organizations, as described in subsection (2)((~~(c)~~))(d) must be able to show that it is seeking tax exempt status from the federal Internal Revenue Service. If a written declaration granting the tax exempt status is not received within two years of formation, the organization must ((~~file~~)) register the trust immediately.

((~~(3)~~)) (d) Nonprofit educational institutions having a course of studies equivalent to that of a public school or college operated by a Washington state school district or by Washington state.

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-305 When to register. ((~~Any trustee required to file under this act must file a copy of the instrument establishing title, powers, and duties and an inventory of the assets of the trust.~~))

(1) A trustee of a charitable or mixed purpose trust must ((~~file~~)) register within two months of receiving control of the body of the trust.

(2) A trustee ((~~or the life tenant~~)) of a trust in which the only property held for a charitable purpose is a vested charitable remainder preceded by a ((~~term or~~)) life estate or other present interest must ((~~file~~)) register within two months ((~~of the termination of the term or life estate or when trust~~

~~income or principal is authorized or required to be used for a charitable purpose, whichever comes first~~)) after commencement of the life estate or other present interest.

(((~~4~~))) (3) A trustee of an instrument containing only contingent gifts or remainders to charitable purposes, shall ((~~file~~)) register within two months of the authorization or requirement to use the trust principal or income for a charitable purpose.

((~~Trustees exempt from reporting under RCW 11.110.073 shall file, in addition to the requirements listed, a copy of the declaration of the federal income tax exempt status, if one is required under federal tax law, or other basis for the claim for exemption and annually, a copy of each publicly available United States tax or information return or report of the trust that is filed with the Internal Revenue Service. As described in statute, these shall include banks or trust companies that are acting as trustees and are subject to examination by a state or federal government body; the governing bodies of nonprofit community foundations or other nonprofit foundations incorporated for charitable purposes, which may accept tax exempt contributions; or governing bodies of hospitals that are nonprofit and charitable, unless formed pursuant to or in connection with existing charitable trusts.~~))

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-310 How to register—Form. Charitable trusts using the assets for charitable purposes and registering under the trust act shall use the ((~~combined charitable organization,~~)) charitable trust((~~, and public benefit~~)) form available in the corporations division ((~~or may provide the required information, under oath, topically sectioned exactly in the following manner:~~)).

(1) ((~~Section I.~~)) The name, address, and telephone number of the charitable trust, foundation, corporation, or trustee and the type of instrument creating or governing the organization, corporation, or trust, the date of the governing instrument, and the location where it is filed;

(2) ((~~Section II.~~)) The names and addresses of the trustees or corporate officers and directors;

(3) ((~~Section III.~~)) The purpose of the charitable trust; the names and addresses of beneficiaries or the selected group of persons (class or classes) or activities which the charitable trust designates;

(4) ((~~Section IV.~~)) Whether or not the trust has a federal Internal Revenue Service tax exempt status or Washington state real or personal property exemptions, and the basis for each exemption. Attach a copy of the application for federal tax exempt status, or the declaration of this status if granted by the Internal Revenue Service under 26 U.S.C. 501 (c)(3), and a copy of the application for exemption from the state of Washington;

(5) ((~~Section V.~~)) An inventory with a description and value of the charitable corporation or trust assets, including a statement of the current market value of such assets, and statement of liabilities of the trust. An audited statement made according to GAAP may be submitted to comply with this section only. Include the name and address of the entity that prepares, compiles, reviews, or audits the financial statement of the charitable trust;

(6) ((~~Section VI.~~)) The titles of the trust instruments or articles of incorporation, copies of which must be attached to the registration report; and

(7) ((~~An irrevocable appointment of the secretary to receive service of process in noncriminal proceedings.~~))

All charitable solicitation trust registrations shall be signed by the responsible trustee or president, treasurer, or comparable officer of the organization.

A copy of the governing instrument creating the trust shall not be deemed sufficient to meet the requirements of this section.

NEW SECTION

WAC 434-120-315 Exemption from annual reporting. Trustees exempt from the annual reporting requirement of RCW 11.110.070 and WAC 434-120-320 because of RCW 11.110.073 shall file:

(1) At the time of registration or qualifying for the exemption, a copy of the declaration of the federal income tax-exempt status, if one is required under federal tax law, or other basis for the claim for exemption; and

(2) Annually, a copy of each publicly available United States tax or information return or report of the trust that is filed with the Internal Revenue Service.

NEW SECTION

WAC 434-120-317 Abbreviated reporting for qualifying trusts. (1) Any trustee may file an abbreviated annual report under this section if:

(a) The report is filed on behalf of a charitable organization, properly registered with the secretary of state under chapter 19.09 RCW, that at the time of reporting:

(i) Retains in trust no more than ten percent of the proceeds of charitable solicitations, net of all deductions or exclusions reported under chapter 19.09 RCW;

(ii) Retains in trust no more than twenty-five thousand dollars in income-producing assets; or

(b) The total value of all trust assets never exceeded five thousand dollars during the reporting year.

(2) An abbreviated annual report shall state the facts satisfying either subsection (1)(a) or (b) of this section, upon a form filed with the secretary of state. The report shall be signed under oath and executed by one or more trustees or an officer of the corporation, association, or organization.

(3) Trustees reporting under this section shall be included on the register of trustees, pursuant to RCW 11.110.050. The trustee may, optionally, provide information for inclusion in the register that is not otherwise required by this section, but that is included as to other trustees.

(4) Nothing in this section shall be construed to exempt qualifying trustees from any provision of law other than the annual reporting requirements under chapter 11.110 RCW. This section does not relate to initial registration under WAC 434-120-300.

(5) Organizations shall use the abbreviated trust form location in the corporations division.

PERMANENT

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-330 Annual fees. (1) Charitable trusts registering for the first time shall pay a fee of twenty-five dollars. If an organization files a noncombined renewal, the fee shall be twenty-five dollars. When renewal is combined with filing an annual nonprofit corporation report the fee shall be twenty-five dollars. If an organization simultaneously files renewals under the Nonprofit Corporations Act, the Charitable Solicitations Act, and the Charitable Trust Act, the annual renewal fee shall be thirty dollars for all three, or if renewing under the Charitable Trusts Act, the Charitable Solicitations Act, the public benefits provision, and filing a nonprofit corporation annual report, the fee shall be thirty dollars for all four.

(2) For all expedited in-person service, the fee is twenty dollars for one or more transactions within one charitable trust file.

(3) For a photocopy of an Internal Revenue Service Form 990EZ the fee is five dollars and for a copy of Form 990 or 990-PF the fee is ten dollars with a surcharge for forms exceeding 100 pages of copy, which is thirteen dollars for each fifty page increment.

PERMANENT

AMENDATORY SECTION (Amending WSR 94-01-004, filed 12/1/93, effective 1/1/94)

WAC 434-120-335 When to file annual reports. (1) Annual reports or other information required to be filed annually by WAC 434-120-315, shall be filed at the same time as renewal or annual reports of corporation status or as charitable solicitation annual reports. If the trust is not registered under any of the corporation acts or the Charitable Solicitations Act, the annual report shall be filed by the last day of the same month of each year (the anniversary date) as the original charitable trust ((~~filing~~)) registration with the secretary of state.

(2) Annual reporting of trusts for several or mixed purposes, or in which the only property to be used for charitable purposes consists of a vested or contingent charitable remainder, shall commence within one year after trust income or principal is authorized or required to be used for a charitable purpose.

WSR 95-11-015
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
(Fisheries)
[Order 95-48—Filed May 5, 1995, 3:45 p.m.]

Date of Adoption: May 5, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-52-07100V; and amending WAC 220-52-071.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable amounts of sea cucumbers are available for harvest in all four districts. Titlow Beach Marine Preserve is closed to preserve the character of the marine preserve. Eagle Harbor and Sinclair Inlet are closed due to contamination and for the economic well-being of the industry. The harvestable surplus of sea cucumbers in Area 28D has been taken.

Effective Date of Rule: Immediately.

May 5, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-52-07100W Sea cucumbers. Notwithstanding the provisions of WAC 220-52-071, effective immediately until further notice it is unlawful to fish for or possess sea cucumbers taken for commercial use from all state waters except during the times and in the areas as provided for in this section:

(1) Sea cucumber harvest using shellfish diver gear is allowed in Sea Cucumber Districts 1, 2, 3, and 4, Monday, Tuesday, and Wednesday of each week from 6:00 a.m. to one-half hour before official sunset of each day, except for closures as provided for in this section.

(2) The following waters are closed to the harvest of sea cucumbers at all times.

(a) Titlow Beach Marine Preserve - All waters due west from the southern end of the Tacoma Outboard Association building near the boat launch ramp to the outer harbor line, then south following the outer harbor line to a line due west from the old ferry landing dock at the 6th Ave. extension then following the line to the high water line to the point of origin.

(b) Those waters in the San Juan Islands permanently closed under WAC 220-52-071 (1)(a).

(c) Eagle Harbor - All waters westerly of a line projected northerly from Wing Point to Eagle Harbor Creosote Light number one and then due west to the shoreline of Bainbridge Island.

(d) Sinclair Inlet - Those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26C west of a line projected southerly from the easternmost point of Point Turner to landfall below the Veterans Home in Annapolis. The remainder of Area 26C is open to harvest.

(e) Those waters of Area 28D.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-52-07100V	Sea cucumbers. (95-44)

WSR 95-11-052
EMERGENCY RULES
FOREST PRACTICES BOARD
[Filed May 10, 1995, 3:38 p.m.]

Date of Adoption: May 10, 1995.

Purpose: To modify forest practices rules, in order to protect public resources while maintaining a viable timber industry.

Citation of Existing Rules Affected by this Order: Amending WAC 222-16-010, 222-16-080, 222-24-030, 222-30-050, 222-30-060, 222-30-070, 222-30-100, 222-38-020 and 222-38-030; and new sections WAC 222-30-065 and 222-30-075.

Statutory Authority for Adoption: RCW 76.09.040, 76.09.050, and chapter 34.05 RCW.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This emergency rule provides protection to the northern spotted owl and the marbled murrelet while the Forest Practices Board conducts the permanent rule adoption process. The northern spotted owl was listed as threatened by the United States Fish and Wildlife Service in July 1990 and by the Washington Wildlife Commission in January 1988. The marbled murrelet was listed in October 1992 and October 1993 respectively.

Effective Date of Rule: Immediately.

May 10, 1995
Jennifer M. Belcher
Commissioner of Public Lands

AMENDATORY SECTION (Amending WSR 94-17-033, filed 8/10/94, effective 8/13/94)

WAC 222-16-010 General definitions.* Unless otherwise required by context, as used in these regulations:

"Act" means the Forest Practices Act, chapter 76.09 RCW.

"Affected Indian tribe" means any federally recognized Indian tribe that requests in writing from the department information on forest practices applications and notification filed on specified areas.

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"**Appeals board**" means the forest practices appeals board established in the act.

"**Area of resource sensitivity**" means areas identified in accordance with WAC 222-22-050 (2)(d) or 222-22-060(2).

"**Board**" means the forest practices board established by the act.

"**Bog**" means wetlands which have the following characteristics: Hydric organic soils (peat and/or muck) typically 16 inches or more in depth (except over bedrock or hardpan); and vegetation such as sphagnum moss, labrador tea, bog laurel, bog rosemary, sundews, and sedges; bogs may have an overstory of spruce, western Hemlock, lodgepole pine, cedar, whitepine, crabapple, or aspen, and may be associated with open water. This includes nutrient-poor fens. See the *Forest Practices Board Manual.*

"**Borrow pit**" shall mean an excavation site outside the limits of construction to provide material necessary to that construction, such as fill material for the embankments.

"**Chemicals**" means substances applied to forest lands or timber including pesticides, fertilizers, and other forest chemicals.

"**Clearcut**" means a harvest method in which the entire stand of trees is removed in one timber harvesting operation. Except as provided in WAC 222-30-110, an area remains clearcut until:

It meets the minimum stocking requirements under WAC 222-34-010(2) or 222-34-020(2); and

The largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"**Commercial tree species**" means any species which is capable of producing a merchantable stand of timber on the particular site, or which is being grown as part of a Christmas tree or ornamental tree-growing operation.

"**Completion of harvest**" means the latest of:

Completion of removal of timber from the portions of forest lands harvested in the smallest logical unit that will not be disturbed by continued logging or an approved slash disposal plan for adjacent areas; or

Scheduled completion of any slash disposal operations where the department and the applicant agree within 6 months of completion of yarding that slash disposal is necessary or desirable to facilitate reforestation and agree to a time schedule for such slash disposal; or

Scheduled completion of any site preparation or rehabilitation of adjoining lands approved at the time of approval of the application or receipt of a notification: *Provided,* That delay of reforestation under this paragraph is permitted only to the extent reforestation would prevent or unreasonably hinder such site preparation or rehabilitation of adjoining lands.

"**Constructed wetlands**" means those wetlands voluntarily developed by the landowner. Constructed wetlands do not include wetlands created, restored, or enhanced as part of a mitigation procedure or wetlands inadvertently created as a result of current or past practices including, but not limited to: Road construction, landing construction, railroad construction, or surface mining.

"**Contamination**" means the introducing into the atmosphere, soil, or water, sufficient quantities of substances as may be injurious to public health, safety or welfare, or to domestic, commercial, industrial, agriculture or recreational uses, or to livestock, wildlife, fish or other aquatic life.

"**Conversion option harvest plan**" means a voluntary plan developed by the landowner and approved by the local government entity indicating the limits of harvest areas, road locations, and open space.

"**Conversion to a use other than commercial timber operation**" shall mean a bona fide conversion to an active use which is incompatible with timber growing.

"**Critical habitat (federal)**" means the habitat of any threatened or endangered species designated as critical habitat by the United States Secretary of the Interior under Sections 3(5)(A) and 4(a)(3) of the Federal Endangered Species Act.

"**Critical nesting season**" means for marbled murrelets - April 1 to August 15.

"**Critical wildlife habitat (state)**" means those habitats designated by the board in accordance with WAC 222-16-080.

"**Cultural resources**" means archaeological and historic sites and artifacts and traditional religious, ceremonial and social uses and activities of affected Indian tribes.

"**Cumulative effects**" means the changes to the environment caused by the interaction of natural ecosystem processes with the effects of two or more forest practices.

"**Daily peak activity**" means for marbled murrelets - one hour before official sunrise to two hours after official sunrise and one hour before official sunset to one hour after official sunset.

"**Debris**" means woody vegetative residue less than 3 cubic feet in size resulting from forest practice activities which would reasonably be expected to cause significant damage to a public resource.

"**Department**" means the department of natural resources.

"**Eastern Washington**" means the lands of the state lying east of an administrative line which approximates the change from the Western Washington timber types to the Eastern Washington timber types described as follows:

Beginning at the International Border and Okanogan National Forest boundary at the N1/4 corner Section 6, T. 40N, R. 24E., W.M., south and west along the Pasayten Wilderness boundary to the west line of Section 30, T. 37N, R. 19E.,

Thence south on range line between R. 18E. and R. 19E., to the Lake Chelan-Sawtooth Wilderness at Section 31, T. 35N, R. 19E.,

Thence south and east along the eastern wilderness boundary of Lake Chelan-Sawtooth Wilderness to the west line of Section 18, T. 31N, R. 19E. on the north shore of Lake Chelan,

Thence south on the range line between R. 18E. and R. 19E. to the SE corner of T. 28N, R. 18E.,

Thence west on the township line between T. 27N, and T. 28N to the NW corner of T. 27N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the Alpine Lakes Wilderness at Section 31, T. 26N, R. 17E.,

Thence south along the eastern wilderness boundary to the west line of Section 6, T. 22N, R. 17E.,

Thence south on range line between R. 16E. and R. 17E. to the SE corner of T. 22N, R. 16E.,

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Thence west along township line between T. 21N, and T. 22N to the NW corner of T. 21N, R. 15E.,

Thence south along range line between R. 14E. and R. 15E. to SW corner of T. 20N, R. 15E.,

Thence east along township line between T. 19N, and T. 20N to the SW corner of T. 20N, R. 16E.,

Thence south along range line between R. 15E. and R. 16E. to the SW corner of T. 18N, R. 16E.,

Thence west along township line between T. 17N, and T. 18N to the SE corner of T. 18N, R. 14E.,

Thence south along range line between T. 14E. and R. 15E. to the SW corner of T. 14N, R. 15E.,

Thence south and west along Wenatchee National Forest Boundary to the NW corner of T. 12N, R. 14E.,

Thence south along range line between R. 13E. and R. 14E. to SE corner of T. 10N, R. 13E.,

Thence west along township line between T. 9N, and T. 10N to the NW corner of T. 9N, R. 12E.,

Thence south along range line between R. 11E. and R. 12E. to SE corner of T. 8N, R. 11E.,

Thence west along township line between T. 7N, and T. 8N to the Gifford Pinchot National Forest Boundary,

Thence south along Forest Boundary to SE corner of Section 33, T. 7N, R. 11E.,

Thence west along township line between T. 6N, and T. 7N to SE corner of T. 7N, R. 9E.,

Thence south along Skamania-Klickitat County line to Oregon-Washington state line.

"End hauling" means the removal and transportation of excavated material, pit or quarry overburden, or landing or road cut material from the excavation site to a deposit site not adjacent to the point of removal.

"Erodible soils" means those soils exposed or displaced by a forest practice operation, that would be readily moved by water.

"Even-aged harvest methods" means the following harvest methods:

Clearcuts;

Seed tree harvests in which twenty or fewer trees per acre remain after harvest;

Shelterwood regeneration harvests in which twenty or fewer trees per acre remain after harvest;

Group or strip shelterwood harvests creating openings wider than two tree heights, based on dominant trees;

Shelterwood removal harvests which leave fewer than one hundred fifty trees per acre which are at least five years old or four feet in average height;

Partial cutting in which fewer than fifty trees per acre remain after harvest;

Overstory removal when more than five thousand board feet per acre is removed and fewer than fifty trees per acre at least ten feet in height remain after harvest; and

Other harvesting methods designed to manage for multiple age classes in which six or fewer trees per acre remain after harvest.

Except as provided above for shelterwood removal harvests and overstory removal, trees counted as remaining after harvest shall be at least ten inches in diameter at breast height and have at least the top one-third of the stem supporting green, live crowns. Except as provided in WAC 222-30-110, an area remains harvested by even-aged methods until it meets the minimum stocking requirements under WAC 222-30-010(2) or 222-34-020(2) and the largest trees qualifying for the minimum stocking levels have survived on the area for five growing seasons or, if not, they have reached an average height of four feet.

"Fen" means wetlands which have the following characteristics: Peat soils 16 inches or more in depth (except over bedrock); and vegetation such as certain sedges, hardstem bulrush and cattails; fens may have an overstory of spruce and may be associated with open water.

"Fertilizers" means any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment.

"Fill" means the placement of earth material or aggregate for road or landing construction or other similar activities. Fill does not include the growing or harvesting of timber including, but not limited to, slash burning, site preparation, reforestation, precommercial thinning, intermediate or final harvesting, salvage of trees, brush control, or fertilization.

"Flood level - 50 year." For purposes of field interpretation of these regulations, the 50-year flood level shall be considered to refer to a vertical elevation measured from the ordinary high-water mark which is 1.25 times the vertical distance between the average stream bed and the ordinary high-water mark, and in horizontal extent shall not exceed 2 times the channel width measured on either side from the ordinary high-water mark, unless a different area is specified by the department based on identifiable topographic or vegetative features or based on an engineering computation of flood magnitude that has a 2 percent chance of occurring in any given year. The 50-year flood level shall not include those lands that can reasonably be expected to be protected from flood waters by flood control devices maintained by or under license from the federal government, the state, or a political subdivision of the state.

"Forest land" means all land which is capable of supporting a merchantable stand of timber and is not being actively used for a use which is incompatible with timber growing.

"Forest land owner" shall mean any person in actual control of forest land, whether such control is based either on legal or equitable title, or on any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner: *Provided,* That any lessee or other person in possession of forest land without legal or equitable title to such land shall be excluded from the definition of "forest land owner" unless such lessee or other person has the right to sell or otherwise dispose of any or all of the timber located on such forest land.

"Forest practice" means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting, or processing timber, including but not limited to:

Road and trail construction;

Harvesting, final and intermediate;

Precommercial thinning;

Reforestation;

Fertilization;

Prevention and suppression of diseases and insects;

Salvage of trees; and

Brush control.

"Forest practice" shall not include: Forest species seed orchard operations and intensive forest nursery operations; or

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preparatory work such as tree marking, surveying and road flagging; or removal or harvest of incidental vegetation from forest lands such as berries, ferns, greenery, mistletoe, herbs, mushrooms, and other products which cannot normally be expected to result in damage to forest soils, timber or public resources.

"Forest trees" excludes trees cultivated by agricultural methods in growing cycles shorter than ten years: *Provided,* That Christmas trees are forest trees and: *Provided further,* That this exclusion applies only to trees planted on land that was not in forest use immediately before the trees were planted and before the land was prepared for planting the trees.

"Green recruitment trees" means those trees left after harvest for the purpose of becoming future wildlife reserve trees under WAC 222-30-020(11).

"Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any tree, bush, weed or algae and other aquatic weeds.

"Historic site" includes:

Sites, areas and structures or other evidence of human activities illustrative of the origins, evolution and development of the nation, state or locality; or

Places associated with a personality important in history; or

Places where significant historical events are known to have occurred even though no physical evidence of the event remains.

"Identified watershed processes" means the following components of natural ecological processes that may in some instances be altered by forest practices in a watershed:

Mass wasting;

Surface and road erosion;

Seasonal flows including hydrologic peak and low flows and annual yields (volume and timing);

Large organic debris;

Shading; and

Stream bank and bed stability.

"Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect, other arthropods or mollusk pests.

"Interdisciplinary team" (ID Team) means a group of varying size comprised of individuals having specialized expertise, assembled by the department to respond to technical questions associated with a proposed forest practice activity.

"Islands" means any island surrounded by salt water in Kitsap, Mason, Jefferson, Pierce, King, Snohomish, Skagit, Whatcom, Island, or San Juan counties.

"Limits of construction" means the area occupied by the completed roadway or landing, including the cut bank, fill slope, and the area cleared for the purpose of constructing the roadway or landing.

"Load bearing portion" means that part of the road, landing, etc., which is supportive soil, earth, rock or other material directly below the working surface and only the associated earth structure necessary for support.

"Local government entity" means the governments of counties and the governments of cities and towns as defined in chapter 35.01 RCW.

"Low impact harvest" means use of any logging equipment, methods, or systems that minimize compaction or disturbance of soils and vegetation during the yarding process. The department shall determine such equipment, methods or systems in consultation with the department of ecology.

"Merchantable stand of timber" means a stand of trees that will yield logs and/or fiber:

Suitable in size and quality for the production of lumber, plywood, pulp or other forest products;

Of sufficient value at least to cover all the costs of harvest and transportation to available markets.

"Northern spotted owl site center" means the location documented by the department of fish and wildlife for Status 1, 2 or 3 northern spotted owls. The department shall rely upon the department of fish and wildlife for the determination of status based on the following definitions:

Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.

Status 2 Two birds, pair status unknown - the presence or response of two birds of the opposite sex where pair status cannot be determined and where at least one member must meet the resident single requirements.

Status 3 Resident territorial single - the presence or response of a single owl within the same general area on three or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., two responses in year one and one response in year two, for the same general area).

"Notice to comply" means a notice issued by the department pursuant to RCW 76.09.090 of the act and may require initiation and/or completion of action necessary to prevent, correct and/or compensate for material damage to public resources which resulted from forest practices.

"Occupied marbled murrelet site" means:

• A contiguous area of suitable marbled murrelet habitat where at least one of the following marbled murrelet behaviors or conditions occurs:

• A nest is located; or

• Downy chicks or eggs or egg shells are found; or

• Marbled murrelets are detected flying below, through, into or out of the forest canopy; or

• Birds calling from a stationary location within the area; or

• Birds circling above the canopy; or

• A contiguous forested area which is not suitable marbled murrelet habitat in which any of the behaviors or conditions listed above has been documented by the department of fish and wildlife and which is distinguishable from the adjacent forest based on vegetative characteristics important to nesting marbled murrelets.

The outer perimeter of the occupied site shall be presumed to be the beginning of any gap greater than three hundred feet wide lacking one or more of the vegetative characteristics listed under "suitable marbled murrelet habitat." For sites defined above, it shall be the beginning of any gap greater than three hundred feet wide where one or more of the distinguishing vegetative characteristics important to murrelets is lacking.

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The department shall rely upon the department of fish and wildlife for the determination of location of these occupied marbled murrelet sites.

"Operator" shall mean any person engaging in forest practices except an employee with wages as his/her sole compensation.

"Ordinary high-water mark" means the mark on the shores of all waters, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years, as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation: *Provided,* That in any area where the ordinary high-water mark cannot be found, the ordinary high-water mark adjoining saltwater shall be the line of mean high tide and the ordinary high-water mark adjoining freshwater shall be the line of mean high-water.

"Other forest chemicals" means fire retardants when used to control burning (other than water), nontoxic repellents, oil, dust-control agents (other than water), salt, and other chemicals used in forest management, except pesticides and fertilizers, that may present hazards to the environment.

"Park" means any park included on the parks register maintained by the department pursuant to WAC 222-20-100(2). Developed park recreation area means any park area developed for high density outdoor recreation use.

"Partial cutting" means the removal of a portion of the merchantable volume in a stand of timber so as to leave an uneven-aged stand of well-distributed residual, healthy trees that will reasonably utilize the productivity of the soil. Partial cutting does not include seedtree or shelterwood or other types of regeneration cutting.

"Pesticide" means any insecticide, herbicide, fungicide, or rodenticide but does not include nontoxic repellents or other forest chemicals.

"Plantable area" is an area capable of supporting a commercial stand of timber excluding lands devoted to permanent roads, utility rights-of-way, that portion of riparian management zones where scarification is not permitted, and any other area devoted to a use incompatible with commercial timber growing.

"Power equipment" means all machinery operated with fuel burning or electrical motors, including heavy machinery, chain saws, portable generators, pumps, and powered backpack devices.

"Public resources" means water, fish, and wildlife and in addition shall mean capital improvements of the state or its political subdivisions.

"Rehabilitation" means the act of renewing, or making usable and reforesting forest land which was poorly stocked or previously nonstocked with commercial species.

"Relief culvert" means a structure to relieve surface runoff from roadside ditches to prevent excessive buildup in water volume and velocity.

"Resource characteristics" means the following specific measurable characteristics of fish, water, and capital improvements of the state or its political subdivisions:

For fish and water:

Physical fish habitat, including temperature and turbidity;

Turbidity in hatchery water supplies; and

Turbidity and volume for areas of water supply.

For capital improvements of the state or its political subdivisions:

Physical or structural integrity.

If the methodology is developed and added to the manual to analyze the cumulative effects of forest practices on other characteristics of fish, water, and capital improvements of the state or its subdivisions, the board shall amend this list to include these characteristics.

"Riparian management zone" means a specified area alongside Type 1, 2 and 3 Waters where specific measures are taken to protect water quality and fish and wildlife habitat.

"Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents or any other vertebrate animal which the director of the state department of agriculture may declare by regulation to be a pest.

"Salvage" means the removal of snags, down logs, windthrow, or dead and dying material.

"Scarification" means loosening the topsoil and/or disrupting the forest floor in preparation for regeneration.

"Shorelines of the state" shall have the same meaning as in RCW 90.58.030 (Shoreline Management Act).

"Side casting" means the act of moving excavated material to the side and depositing such material within the limits of construction or dumping over the side and outside the limits of construction.

"Site preparation" means those activities associated with the removal of slash in preparing a site for planting and shall include scarification and/or slash burning.

"Skid trail" means a route used by tracked or wheeled skidders to move logs to a landing or road.

"Slash" means pieces of woody material containing more than 3 cubic feet resulting from forest practice activities.

"Spoil" means excess material removed as overburden or generated during road or landing construction which is not used within limits of construction.

"Stop work order" means the "stop work order" defined in RCW 76.09.080 of the act and may be issued by the department to stop violations of the forest practices chapter or to prevent damage and/or to correct and/or compensate for damages to public resources resulting from forest practices.

"Suitable marbled murrelet habitat" means a contiguous forested area with all of the following characteristics:

- Within forty miles of marine waters;
- Containing at least eight trees per acre equal to or greater than 32 inches dbh;
- At least forty percent of the trees equal to or greater than thirty-two inches are Douglas-fir, western hemlock, western red cedar or sitka spruce; and
- Containing at least two nesting platforms per acre. Nesting platforms shall include any horizontal limb, tree structure, or deformity equal to or greater than seven inches in diameter and fifty feet or more in height above the ground.

"Threatened or endangered species" means all species of wildlife listed as "threatened" or "endangered" by the United States Secretary of the Interior, and all species of wildlife designated as "threatened" or "endangered" by the Washington wildlife commission.

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"Timber" shall mean forest trees, standing or down, of a commercial species, including Christmas trees.

"Water bar" means a diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion.

"Watershed administrative unit (WAU)" means an area shown on the map specified in WAC 222-22-020(1).

"Watershed analysis" means, for a given WAU, the assessment completed under WAC 222-22-050 or 222-22-060 together with the prescriptions selected under WAC 222-22-070 and shall include assessments completed under WAC 222-22-050 where there are no areas of resource sensitivity.

"Weed" is any plant which tends to overgrow or choke out more desirable vegetation.

"Western Washington" means the lands of the state lying west of the administrative line described in the definition of Eastern Washington.

"Wetland" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, such as swamps, bogs, fens, and similar areas. This includes wetlands created, restored, or enhanced as part of a mitigation procedure. This does not include constructed wetlands or the following surface waters of the state intentionally constructed from wetland sites: Irrigation and drainage ditches, grass lined swales, canals, agricultural detention facilities, farm ponds, and landscape amenities.

"Wetland functions" include the protection of water quality and quantity, providing fish and wildlife habitat, and the production of timber.

"Wetland management zone" means a specified area adjacent to Type A and B Wetlands where specific measures are taken to protect the wetland functions.

"Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. The term "wildlife" includes, but is not limited to, any mammal, bird, reptile, amphibian, fish, or invertebrate, at any stage of development. The term "wildlife" does not include feral domestic mammals or the family Muridae of the order Rodentia (old world rats and mice).

"Wildlife reserve trees" means those defective, dead, damaged, or dying trees which provide or have the potential to provide habitat for those wildlife species dependent on standing trees. Wildlife reserve trees are categorized as follows:

Type 1 wildlife reserve trees are defective or deformed live trees that have observably sound tops, limbs, trunks, and roots. They may have part of the top broken out or have evidence of other severe defects that include: "Cat face," animal chewing, old logging wounds, weather injury, insect attack, or lightning strike. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 1 wildlife reserve trees. These trees must be stable and pose the least hazard for workers.

Type 2 wildlife reserve trees are dead Type 1 trees with sound tops, limbs, trunks, and roots.

Type 3 wildlife reserve trees are live or dead trees with unstable tops or upper portions. Unless approved by the landowner, only green trees with visible cavities, nests, or obvious severe defects capable of supporting cavity dependent species shall be considered as Type 3 wildlife reserve trees. Although the roots and main portion of the trunk are sound, these reserve trees pose high hazard because of the defect in live or dead wood higher up in the tree.

Type 4 wildlife reserve trees are live or dead trees with unstable trunks or roots, with or without bark. This includes "soft snags" as well as live trees with unstable roots caused by root rot or fire. These trees are unstable and pose a high hazard to workers.

"Windthrow" means a natural process by which trees are uprooted or sustain severe trunk damage by the wind.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-16-080 Critical wildlife habitats (state) and critical habitat (federal) of threatened and endangered species. (1) Critical wildlife habitats (state) of threatened or endangered species and specific forest practices designated as Class IV-Special are as follows:

(a) Bald eagle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of January 1 and August 15 or 0.25 mile at other times of the year; and within 0.25 mile of a communal roosting site. Communal roosting sites shall not include refuse or garbage dumping sites.

(b) Gray wolf - harvesting, road construction, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of March 15 and July 30 or 0.25 mile from the den site at other times of the year.

(c) Grizzly bear - harvesting, road construction, aerial application of pesticides, or site preparation within 1 mile of a known active den site, documented by the department of wildlife, between the dates of October 1 and May 30 or 0.25 mile at other times of the year.

(d) Mountain caribou - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active breeding area, documented by the department of wildlife.

(e) Oregon silverspot butterfly - harvesting, road construction, aerial or ground application of pesticides, or site preparation within 0.25 mile of an individual occurrence, documented by the department of wildlife.

(f) Peregrine falcon - harvesting, road construction, aerial application of pesticides, or site preparation within 0.5 mile of a known active nest site, documented by the department of wildlife, between the dates of March 1 and July 30; or harvesting, road construction, or aerial application of pesticides within 0.25 mile of the nest site at other times of the year.

(g) Sandhill crane - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known active nesting area, documented by the department of wildlife.

(h) Northern spotted owl - harvesting, road construction, or aerial application of pesticides on the most suitable 500

acres of ((~~suitable~~)) nesting, ((~~breeding~~)) roosting, and foraging habitat surrounding the activity center of known Status 1, 2, or 3 spotted owls, documented by the department of fish and wildlife. The most suitable habitat shall be determined by the department in cooperation with the department of fish and wildlife, tribes, and others with applicable expertise. Consideration shall be given to habitat quality, proximity to the activity center and contiguity in selecting the most suitable 500 acres of habitat.

((~~This rule is intended to be interim and will expire on February 9, 1994. Prior to the above expiration date~~)) The forest practices board will reconsider the protection of spotted owls based on consideration of advancing science and increased data analysis, as well as the board's landscape planning for wildlife and would be influenced by the completion of the northern spotted owl recovery plan, rule making under the Federal Endangered Species Act, or other federal action, or other state actions.

((~~The department shall rely upon the department of wildlife for the determination of status based on the following definitions:~~

~~Status 1 Pair or reproductive - the presence or response of two birds of the opposite sex where past or current reproductive activities have been documented.~~

~~Status 2 Two birds, pair status unknown - the presence or response of 2 birds of the opposite sex where pair status cannot be determined and where at least 1 member must meet the resident single requirements.~~

~~Status 3 Resident territorial single - the presence or response of a single owl within the same general area on 3 or more occasions within a breeding season with no response by an owl of the opposite sex after a complete survey; or multiple responses over several years (i.e., 2 responses in year one and 1 response in year two, for the same general area).~~))

(i) Western pond turtle - harvesting, road construction, aerial application of pesticides, or site preparation within 0.25 mile of a known individual occurrence, documented by the department of wildlife.

(j) Marbled murrelet.

(i) Harvesting, other than removal of down trees outside of the critical nesting season, or road construction within an occupied marbled murrelet site.

(ii) Operation of heavy equipment, during the critical nesting season, within an occupied marbled murrelet site.

(iii) Use of aircraft below one thousand three hundred feet above ground level, during the critical nesting season, over an occupied marbled murrelet site or the required managed buffer zone adjacent to that site.

(iv) Harvesting within a three hundred foot wide managed buffer zone adjacent to an occupied marbled murrelet site that results in less than a residual stem stand density of seventy-five trees per acre greater than 6 inches dbh; provided that twenty-five of which shall be greater than 12 inches dbh including five trees greater than 20 inches dbh, where they exist. The primary consideration for the design of managed buffer zone widths and leave tree retention patterns shall be to mediate edge effects. The width of the buffer zone may be reduced in some areas to a minimum of two hundred feet and extended to maximum of four hundred feet as long as an average of three hundred feet is maintained.

(v) Blasting and slash burning, during the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vi) Harvesting, road construction, operation of heavy equipment, timber hauling, or use of aircraft below one thousand three hundred feet above ground level, during the daily peak activity periods within the critical nesting season, within 0.25 mile of an occupied marbled murrelet site.

(vii) Marbled murrelet critical wildlife habitat (state) shall not include habitat where a current marbled murrelet survey has been conducted and no use of the suitable marbled murrelet habitat by a bird has been detected. Surveys shall be conducted utilizing a survey protocol which is acceptable to the department of fish and wildlife.

(viii) Site status determination and completion of marbled murrelet surveys shall not be a landowner responsibility.

(ix) This rule is intended to be interim and shall be changed as necessary, such as upon completion of a state or federal recovery plan for the marbled murrelet or significant new information.

(2) A site specific special wildlife management plan, including a bald eagle site management plan under WAC 232-12-292, developed by the landowner is preferred and shall replace the critical wildlife habitats (state) listed in subsection (1) of this section when such a plan has been established in cooperation with, and approved by, the department of fish and wildlife.

(3) The following critical habitats (federal) designated by the United States Secretary of the Interior, or specific forest practices within those habitats, have been determined to not have the potential for a substantial impact on the environment:

None listed.

(4) For the purpose of identifying forest practices which have the potential for a substantial impact on the environment with regard to threatened or endangered species newly listed by the Washington wildlife commission and/or the United States Secretary of the Interior, the department shall after consultation with the department of wildlife, prepare and submit to the board a proposed list of critical wildlife habitats (state) of threatened or endangered species. This list shall be submitted to the board within 15 days of the listing of the species. The department shall, at a minimum, consider potential impacts of forest practices on habitats essential to meeting the life requisites for each species listed as threatened or endangered. Those critical wildlife habitats (state) adopted by the board shall be added to the list in subsection (1) of this section. See WAC 222-16-050 (1)(b)(i).

(5) For the purpose of identifying any areas and/or forest practices within critical habitats (federal) designated by the United States Secretary of the Interior which do not have the potential for a substantial impact on the environment, the department shall, after consultation with the department of wildlife, submit to the board a proposed list of any forest practices and/or areas proposed for exclusion from Class IV - special forest practices. The department shall submit the list to the board within 120 days of the date the United States Secretary of the Interior publishes a final

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rule designating critical habitat (federal) in the Federal Register. Those critical habitats excluded by the board from Class IV - Special shall be added to the list in subsection (3) of this section. See WAC 222-16-050 (1)(b)(ii).

(6)(a) Except for bald eagles under subsection (1)(b) of this section, the critical wildlife habitats (state) of threatened and endangered species and specific forest practices designated in subsection (1) of this section are intended to be interim. These interim designations shall expire for a given species on the earliest of:

(i) The effective date of a regulatory system for wildlife protection referred to in (b) of this subsection or of substantive rules on the species.

(ii) The delisting of a threatened or endangered species by the Washington wildlife commission.

(b) The board shall examine current wildlife protection and department authority to protect wildlife and develop and recommend by May 1993 a regulatory system, including baseline rules for wildlife protection. To the extent possible, this system shall:

(i) Use the best science and management advice available;

(ii) Use a landscape approach to wildlife protection;

(iii) Be designed to avoid the potential for substantial impact to the environment;

(iv) Protect known populations of threatened and endangered species of wildlife from negative effects of forest practices consistent with RCW 76.09.010; and

(v) Consider and be consistent with recovery plans adopted by the department of wildlife pursuant to RCW 77.12.020(6) or habitat conservation plans or 16 U.S.C. 1533(d) rule changes of the Endangered Species Act.

(7) Regardless of any other provision in this section, the following are not critical wildlife habitats (state) or critical habitats (federal) for the particular species:

(a) Forest practices on lands covered by a conservation plan and permit for a particular species approved by the U.S. Fish and Wildlife Service pursuant to 16 U.S.C. 1539 (a)(2) consistent with that plan and permit; or

(b) Forest practices covered by a rule adopted by the U.S. Fish and Wildlife Service for the conservation of a particular threatened species pursuant to 16 U.S.C. 1533(d).

AMENDATORY SECTION (Amending WSR 92-23-056, filed 11/17/92, effective 12/18/92)

WAC 222-24-030 Road construction. (1) **Right of way timber.** Merchantable right of way timber shall be removed or decked in suitable locations where the decks will not be covered by fill material or act as support for the fill or embankment.

*(2) **Debris burial.**

(a) In permanent road construction, do not bury:

(i) Loose stumps, logs or chunks containing more than 5 cubic feet in the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(ii) Any significant amount of organic debris within the top 2 feet of the load-bearing portion of the road, except as puncheon across wetlands or for culvert protection.

(iii) Excessive accumulation of debris or slash in any part of the load-bearing portion of the road fill, except as puncheon across wetlands or for culvert protection.

(b) In the cases where temporary roads are being constructed across known areas of unstable soils and where possible construction failure would directly impact waters, the requirements in (a), (i), (ii) and (iii) of this subsection shall apply. A temporary road is a roadway which has been opened for the purpose of the forest practice operation in question, and thereafter will be an inactive or abandoned road.

(3) **Compact fills.** During road construction, fills or embankments shall be built up by layering. Each layer shall be compacted by operating the tractor or other construction equipment over the entire surface of the layer. Chemical compacting agents may be used in accordance with WAC 222-38-020.

*(4) **Stabilize soils.** When soil, exposed by road construction, appears to be unstable or erodible and is so located that slides, slips, slumps, or sediment may reasonably be expected to enter Type 1, 2, 3 or 4 Water and thereby cause damage to a public resource, then such exposed soil areas shall be seeded with grass, clover, or other ground cover, or be treated by erosion control measures acceptable to the department. Avoid introduction of nonnative plant species, as listed in the board manual, to wetlands and wetland management zones.

*(5) **Channel clearance.** Clear stream channel of all debris and slash generated during operations prior to the removal of equipment from the vicinity, or the winter season, whichever is first.

*(6) **Drainage.**

(a) All required ditches, culverts, cross drains, drainage dips, water bars, and diversion ditches shall be installed concurrently with the construction of the roadway.

(b) Uncompleted road construction to be left over the winter season or other extended periods of time shall be drained by outsloping or cross draining. Water bars and/or dispersion ditches may also be used to minimize eroding of the construction area and stream siltation. Water movement within wetlands must be maintained.

*(7) **Moisture conditions.** Construction shall be accomplished when moisture and soil conditions are not likely to result in excessive erosion and/or soil movement, so as to avoid damage to public resources.

*(8) **End haul/sidecasts.** End haul or overhaul construction is required where significant amounts of sidecast material would rest below the 50-year flood level of a Type 1, 2, 3, or 4 Water, within the boundary of a Type A or Type B Wetland or wetland management zones or where the department determines there is a potential for mass soil failure from overloading on unstable slopes or from erosion of side cast material causing damage to the public resources.

*(9) **Waste disposal.** When spoil, waste and/or other debris is generated during construction, this material shall be deposited or wasted in suitable areas or locations and be governed by the following:

(a) Spoil or other debris shall be deposited above the 50-year flood level of Type 1, 2, 3, or 4 Waters or in other locations so as to prevent damage to public resources. The material shall be stabilized by erosion control measures as necessary to prevent the material from entering the waters.

(b) All spoils shall be located outside of Type A and Type B Wetlands and their wetland management zones. Spoils shall not be located within the boundaries of forested

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wetlands without written approval of the department and unless a less environmentally damaging location is unavailable. No spoil area greater than 0.5 acre in size shall be allowed within wetlands.

(10) **Disturbance avoidance.** Road construction, operation of heavy equipment and blasting shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-050 Felling and bucking. *(1) **Falling along water.**

(a) No trees will be felled into Type 1, 2 and 3 Waters, or Type A or B Wetlands except trees which cannot practically and safely be felled outside the stream, lake or pond using techniques in general use and these trees must then be removed promptly.

Such felling and removing in Type 1, 2 or 3 Waters shall comply with the hydraulic project approval of the departments of fisheries or wildlife.

(b) Within riparian management zones, and wetland management zones fall trees favorable to the lead consistent with safety standards to yard or skid away from the waters. The use of directional falling, lining, jacking and staged falling techniques are encouraged.

(c) Trees may be felled into Type 4 Water if logs are removed as soon thereafter as practical. See forest practices board manual guidelines for clearing slash and debris from Type 4 and 5 Water.

*(2) **Bucking in water.**

(a) No bucking or limbing shall be done on trees or portions thereof lying between the banks of Type 1, 2 or 3 Waters or in open water areas of Type A Wetlands, except as necessary to remove the timber from the water.

(b) Where bucking or limbing is done between the banks of a Type 4 Water, care shall be taken to minimize accumulation of slash in the water.

*(3) **Falling near riparian management zones, wetland management zones and setting boundaries.** Reasonable care shall be taken to avoid felling trees into riparian management zones, wetland management zones and areas outside the harvest unit.

(4) **Falling in selective and partial cuts.** Reasonable care shall be taken to fall trees in directions that minimize damage to residual trees.

(5) **Disturbance avoidance.** Felling and bucking shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-060 Cable yarding. *(1) **Type 1, 2 and 3 Waters.** No timber shall be cable yarded in or across a Type 1, 2 or 3 Waters except where the logs will not materially damage the bed of waters, banks or riparian management zones and removals from Type 1, 2 or 3 Water have hydraulic project approval of the departments of fisheries or wildlife.

*(2) **Type A or B Wetlands.** No timber shall be cable yarded in or across Type A or B Wetlands without written approval from the department.

*(3) **Deadfalls.** Any logs which are firmly embedded in the bed of a Type 1, 2, 3 and 4 Waters shall not be removed or unnecessarily disturbed without approval of the departments of fisheries or wildlife.

*(4) **Yarding in riparian management zones and wetland management zones.** Where timber is yarded from or across a riparian management zone, or wetland management zone reasonable care shall be taken to minimize damage to the vegetation providing shade to the stream or open water areas and to minimize disturbance to understory vegetation, stumps and root systems. Where practical and consistent with good safety practices, logs shall be yarded in the direction in which they lie and away from Type A or B Wetlands or Type 1, 2 and 3 Waters until clear of the wetland management zone or riparian management zone.

(5) **Direction of yarding.**

(a) Uphill yarding is preferred.

(b) Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils.

*(c) When yarding parallel to a Type 1, 2 or 3 Water channel below the 50-year flood level or within the riparian management zone, reasonable care shall be taken to minimize soil disturbance and to prevent logs from rolling into the stream, lake, pond, or riparian management zone.

(6) **Disturbance avoidance.** The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

NEW SECTION

WAC 222-30-065 Helicopter yarding. Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-070 Tractor and wheeled skidding systems. *(1) **Typed waters and wetlands.**

(a) Tractor and wheeled skidders shall not be used in Type 1, 2 or 3 Water, except with approval by the department and with a hydraulic project approval of the departments of fisheries or wildlife.

(b) In order to maintain wetland water movement and water quality, and to prevent soil compaction, tractor or wheeled skidders shall not be used in Type A or B Wetlands without prior written approval of the department.

(c) Within all wetlands, tractors and wheeled skidder systems shall be limited to low impact harvest systems. Ground based logging systems operating in wetlands shall only be allowed within wetlands during periods of low soil moisture or frozen soil conditions.

(d) Skidding across any flowing Type 4 Water shall be minimized and when done, temporary stream crossings shall be used, if necessary, to maintain stream bed integrity.

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(e) Whenever skidding in or across any type water, the direction of log movement between stream banks shall be as close to right angles to the stream channel as is practical.

*(2) **Riparian management zone.**

(a) Logging will be permitted within the zone. However, any use of tractors, wheeled skidders, or other yarding machines within the zone must be as described in an approved forest practices application or otherwise approved in writing by the department.

(b) Where skidding in or through the riparian management zone is necessary, the number of skidding routes through the zone shall be minimized.

(c) Logs shall be skidded so as to minimize damage to leave trees and vegetation in the riparian management zone, to the extent practical and consistent with good safety practices.

*(3) **Wetlands management zones.**

(a) Logging will be permitted within wetland management zones.

(b) Where feasible logs shall be skidded at least with one end suspended from the ground so as to minimize soil disturbance and damage to leave trees and vegetation in the wetland management zone.

(c) Tractors, wheeled skidders, or other ground based harvesting systems shall not be used within the minimum WMZ width without written approval of the department.

*(4) **Deadfalls.** Logs firmly embedded in the bed or bank of Type 1, 2, 3 or 4 Waters shall not be removed or unnecessarily disturbed without hydraulic project approval of the departments of fisheries or wildlife.

*(5) **Moisture conditions.** Tractor and wheeled skidders shall not be used on exposed erodible soils or saturated soils when soil moisture content is so high that unreasonable soil compaction, soil disturbance, or wetland, stream, lake or pond siltation would result.

(6) **Protection of residual timber.** Reasonable care shall be taken to minimize damage from skidding to the stems and root systems of residual timber and to young reproduction.

*(7) **Skid trail construction.**

(a) Skid trails shall be kept to the minimum feasible width.

(b) Reasonable care shall be taken to minimize the amount of sidecast required and shall only be permitted above the 50-year flood level.

(c) Skid trails shall be outsloped where practical, but be insloped where necessary to prevent logs from sliding or rolling downhill off the skid trail.

*(8) **Skid trail maintenance.** Upon completion of use and termination of seasonal use, skid trails on slopes in exposed soils shall be water barred where necessary to prevent soil erosion.

*(9) **Slope restrictions.** Tractor and wheeled skidders shall not be used on slopes where in the opinion of the department this method of operation would cause unnecessary or material damage to a public resource.

(10) **Disturbance avoidance.** The operation of heavy equipment shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

NEW SECTION

WAC 222-30-075 Timber and rock hauling. The following limits on timber hauling shall apply within 0.25 mile northern spotted owl site center between March 1 and August 31:

(1) At all times of the day vehicle speed shall be limited to fifteen miles per hour; and

(2) Timber and rock hauling shall be limited to one hour after official sunrise to one hour before official sunset; and

(3) All reasonable attempts shall be made to minimize traffic within suitable habitat, attempt to route traffic through nonhabitat.

AMENDATORY SECTION (Amending WSR 92-15-011, filed 7/2/92, effective 8/2/92)

WAC 222-30-100 Slash disposal or prescribed burning. (1) **Slash disposal** techniques:

*(a) Any conventional method of slash disposal may be used, except in Type A or B Wetlands, wetland management zones, and riparian management zones and on sites where the department determines that a particular method would cause unreasonable risk to public resources or unreasonably damage site productivity. Conventional methods of slash disposal include the following: Controlled broadcast burning; pile or windrow and burn; pile or windrow without burning; mechanical scatter and compaction; scarification; chip, mulch or lop and scatter; burying; and physical removal from the forest lands: *Provided,* That on land shown to have low productivity potential the landowner or operator shall obtain the department's approval of its regeneration plan prior to utilizing controlled broadcast burning as a slash disposal technique. In riparian management zones, slash disposal shall be by hand, unless approved by the department. Scarification shall not be allowed within wetlands. Machine piling is discouraged in wetlands.

(b) All slash burning requires a burning permit from the department which provides for compliance with the smoke management plan and reasonable care to protect Type A and B Wetlands, wetland management zones, riparian management zones, soil, residual timber, public resources, and other property.

*(c) Location of slash piles. Except where burning will be completed before the next ordinary high-water season, slash shall not be piled or windrowed below the 50-year flood level of any Type 1, 2, 3 or 4 Water or in locations from which it could be expected to enter any stream, lake or pond.

(2) **Slash isolation, reduction, or abatement** is required when the department determines there is an extreme fire hazard according to law (see WAC 332-24-360).

(3) **Slash disposal** is required where the forest landowner has applied for and been granted an extension of time for reforestation on the grounds that slash disposal is necessary or desirable before reforestation.

*(4) **Removing slash and** debris from streams.

"Slash" or "debris" which can reasonably be expected to cause significant damage to the public resource shall be removed from Type 1, 2, 3 or 4 Waters, to above the 50-year flood level and left in a location or manner minimizing risk of re-entry into the stream, lake or pond and if substantial accumulations of slash exist below the 50-year flood

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level of Type 1, 2, 3 or 4 Waters, slash disposal is required. See the forest practices board manual for "Guidelines for clearing slash and debris from Type 4 and 5 Waters."

*(5) **Fire trails.**

(a) Construct dips, water bars, cross drainage and ditches as needed to control erosion.

(b) Reasonable care shall be taken to minimize excavation during fire trail construction and sidecast shall only be permitted above the 50-year flood level.

(c) Fire trails shall not be located within Type A or B Wetlands, wetland management zones, or riparian zones without prior written approval of the department. Hand constructed fire trails are preferred within forested wetlands. When machine built fire trails are necessary for control of burning, trail width and excavation shall be minimized.

(6) **Disturbance avoidance.** Burning shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-38-020 Handling, storage, and application of pesticides. *(1) No pesticide leakage, contamination, pollution.

Transportation, handling, storage, loading, application, and disposal of pesticides shall be consistent with applicable label requirements and other state and federal requirements.

*(2) **Mixing and loading areas.**

(a) Mix pesticides and clean tanks and equipment only where any accidental spills would not enter surface water or wetlands.

(b) Storage and loading areas should be located where accidental spillage of pesticides will not enter surface water or wetlands. If any pesticide is spilled, immediate appropriate procedures should be taken to contain it.

(c) Use devices or procedures to prevent "back siphoning" such as providing an air gap or reservoir between the water source and the mixing tank.

*(3) **Riparian management zone.** Pesticide treatments within the riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(4) **Wetland management zone.** Pesticide treatment within the wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(5) **Aerial application of pesticides.**

(a) To keep pesticides out of the water, leave a 50 foot buffer strip on all typed waters, except segments of Type 4 and 5 Waters with no surface water and other areas of open water, such as ponds or sloughs.

(b) Apply the initial swath parallel to the buffer strip in (a) of this subsection unless a deviation is approved in advance by the department. Drift control agents shall be required adjacent to buffer strips. Avoid applications that might result in drift causing direct entry of pesticides into riparian management zones, Type A and B Wetlands, wetland management zones, and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

(c) Use a bucket or spray device capable of immediate shutoff.

(d) Shut off spray equipment during turns and over open water.

(e) Leave at least a 200 foot buffer strip around residences and 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(f) The landowner shall identify for the operator the units to be sprayed and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the pesticide an overflight of the area shall be made by the pilot with the marked photos or maps.

(g) Aerial chemical application areas shall be posted by the landowner by signing at significant points of regular access at least 5 days prior to treatment. Posting shall remain at least 15 days after the spraying is complete. The department may require an extended posting period in areas where human use or consumption of plant materials is probable. Posting at formal, signed trailheads that are adjacent to aerially treated units is required. The signs will contain the name of the product used, date of treatment, a contact telephone number, and any applicable restrictions.

(h) **Disturbance avoidance.** Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

*(6) **Ground application of pesticides with power equipment.**

Leave a 25-foot buffer strip on each side of Type A or B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

*(7) **Hand application of pesticides.**

Apply only to specific targets, such as vegetation, trees, stumps, and burrows, or as bait or in traps.

*(8) **Limitations on application.** Pesticides shall be applied only in accordance with all limitations:

(a) Printed on the United States Environmental Protection Agency container registration label, and/or

(b) Established by regulation of the state department of agriculture.

(c) Established by state and local health departments (in municipal watersheds).

(d) Established by the Federal Occupational Safety and Health Administration, or the state department of labor and industries, as they relate to safety and health of operating personnel and the public.

(e) The department or the department of agriculture may suspend further use of any equipment responsible for chemical leakage until the deficiency has been corrected to the satisfaction of the department suspending its usage.

*(9) **Container disposal.** Pesticide containers shall be either:

(a) Removed from the forest and disposed of in the manner consistent with label directions; or

(b) Removed and cleaned for reuse in a manner consistent with any applicable regulations of the state department of agriculture or the state or local health departments.

*(10) **Daily records - aerial application of pesticides.** On all aerial applications of pesticides, the operator shall maintain for 3 years daily records of spray operations as required by the state department of agriculture WAC 16-228-190.

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*(11) **Reporting of spills.** All potentially damaging chemical spills shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

AMENDATORY SECTION (Amending WSR 93-12-001, filed 5/19/93, effective 6/19/93)

WAC 222-38-030 Handling, storage, and application of fertilizers. *(1) **Storage and loading areas.** Storage and loading areas should be located where accidental spillage of fertilizers will not enter surface water or wetlands. If any fertilizer is spilled, immediate appropriate procedures shall be taken to contain it.

*(2) **Riparian management zone.** Fertilizer treatments within a riparian management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(3) **Wetland management zone.** Fertilizer treatments within a wetland management zone shall be by hand unless the department has approved a site specific plan with another method of treatment.

*(4) **Aerial application of fertilizer.**

(a) Proposed fertilization units shall be planned to avoid and to minimize the direct or indirect introduction of fertilizer into waters and wetlands.

(b) Leave a 25 foot buffer on all Type 1, 2, and 3 Waters, except as noted in (f) of this subsection.

(c) When the helicopter flight path during fertilizer application is parallel to a water course or the WMZ edge, the centerline of the initial swath should be adjusted to prevent direct application within the buffers or WMZs.

(d) Leave at least a 200 foot buffer strip around residences and a 100 foot buffer strip adjacent to lands used for agriculture unless such residence or farmland is owned by the forest landowner or the aerial application is acceptable to the resident or landowner.

(e) The landowner shall identify for the operator the units to be fertilized and the untreated areas within the units with appropriately marked aerial photos or detailed planimetric maps. Before application of the fertilizer, an overflight of the area shall be made by the pilot with the marked photos or maps.

(f) Where the department has been provided information by the department of ecology indicating that water quality in downstream waters is likely to be impaired by entry of fertilizer into waters, such waters shall be protected by site specific conditioning.

(g) **Disturbance avoidance.** Helicopter operations shall not be allowed within 0.25 mile of a northern spotted owl site center between March 1 and July 31.

*(5) **Ground and hand application of fertilizers.** Prevent fertilizer from entering Type A and B Wetlands and all typed waters, except segments of Type 4 and 5 Waters with no surface water.

*(6) **Reporting of fertilizer spills.** All fertilizer spills involving streams, lakes, wetlands, or other waters of the state shall be immediately reported to the department of ecology. Emergency telephone numbers for reporting spills shall be available at the department's regional offices.

WSR 95-11-061
EMERGENCY RULES
DEPARTMENT OF FISH AND WILDLIFE
(Fisheries)

[Order 95-45—Filed May 12, 1995, 3:05 p.m.]

Date of Adoption: May 11, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-32-05500L; and amending WAC 220-32-050 [220-32-055].

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: These rules are necessary in order to make the WAC rules consistent with subsistence fishing closures initiated by the four treaty tribes, to protect a record low run of upriver spring chinook.

Effective Date of Rule: Immediately.

May 11, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-32-05500M Columbia River—Salmon seasons above Bonneville. Notwithstanding the provisions of WAC 220-32-055:

(1) Effective immediately through May 31, 1995, it is unlawful for a person possessing treaty fishing rights under the Yakama, Warm Springs, Umatilla and Nez Perce treaties to take or possess salmon taken for subsistence purposes from those waters of the Columbia River between Bonneville Dam and McNary Dam.

(2) Effective immediately until further notice, it is unlawful for a person possessing treaty fishing rights under the Yakama treaty to take or possess salmon taken for subsistence purposes from the Yakima River and Klickitat River, except under the following provisions:

(a) The Yakima River from Horn Rapids Dam to Wapato Dam is open noon Tuesday to 6:00 p.m. Saturday of each week through June 10, 1995.

(b) Allowable Gear:

Dipnets, setbag net, or rod and reel with bait or lures. All other fishing gear and methods, including snagging are unlawful.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-32-05500L Columbia River—Salmon seasons above Bonneville. (95-41)

EMERGENCY

WSR 95-11-062
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Order 95-61—Filed May 12, 1995, 3:07 p.m., effective May 22, 1995, 4:00 a.m.]

Date of Adoption: May 11, 1995.

Purpose: Commercial fishing rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-33-030.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Harvestable numbers of shad are available in the Columbia River. This rule is consistent with the actions of the Columbia River Compact.

Effective Date of Rule: May 22, 1995, 4:00 a.m.

May 11, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-33-03000J Commercial shad—Columbia River. Notwithstanding the provisions of WAC 220-33-030, it is unlawful to take, fish for or possess shad for commercial purposes except as provided for in this section:

FISHING PERIODS

(1) The Camas-Washougal Reef Are is open: 4:00 a.m. May 22 to 11:59 p.m. May 26, 1995; 4:00 a.m. May 30 to 11:95 p.m. June 2, 1995;
4:00 a.m. June 5 to 11:59 p.m. June 9, 1995; 4:00 a.m. June 12 to 11:59 p.m. June 16, 1995; 4:00 a.m. June 19 to 11:59 p.m. June 23, 1995; 4:00 a.m. June 26 to 11:59 p.m. June 30, 1995.

GEAR

(2) Gill net gear may be used to fish for shad as provided in WAC 220-33-030(1), except that the webbing of the gear must be constructed of mesh having a breaking strength of less than 30 pounds.

(3) During the fishing periods provided in this section, only shad may be kept and sold. All salmonids and sturgeon must be immediately returned to the water and those alive must be released unharmed.

WSR 95-11-063
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Order 95-62—Filed May 12, 1995, 3:10 p.m., effective May 16, 1995]

Date of Adoption: May 11, 1995.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-57-270.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The allowable recreational harvest of spring-summer chinook salmon will be exceeded in the Hoh River without additional restrictions to reduce the harvest.

Effective Date of Rule: May 16, 1995.

May 11, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-57-27000A Hoh River. Notwithstanding the provisions of WAC 220-57-270, effective May 16, 1995 through August 31, 1995, special daily limit for salmon taken in the Hoh River downstream from Morgan's Crossing boat launch site. The daily limit is six salmon per day not less than 12 inches in length, only one of which may exceed 24 inches in length.

WSR 95-11-064
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)

[Order 95-63—Filed May 12, 1995, 3:13 p.m., effective May 16, 1995]

Date of Adoption: May 12, 1995.

Purpose: Commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Amending WAC 220-88A-070.

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: Commercial coonstripe shrimp landings have declined steadily since 1992. Test fishing data also indicates that coonstripe shrimp stocks are at very low levels and spot shrimp populations remain depressed. Total shrimp harvest must be limited to prevent fishery collapse.

Effective Date of Rule: May 16, 1995.

EMERGENCY

May 12, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-88A-07000A Emerging commercial fishery—Puget Sound shrimp pot experimental fishery—Seasons and gear—Spot prawn restrictions. Notwithstanding the provisions of WAC 220-88A-070, effective May 16, 1995 until further notice, it is unlawful to fish for shrimp for commercial purposes within the waters of Shrimp District One.

WSR 95-11-065
EMERGENCY RULES
DEPARTMENT OF
FISH AND WILDLIFE
(Fisheries)
[Order 95-64—Filed May 12, 1995, 3:15 p.m., effective May 16, 1995]

Date of Adoption: May 12, 1995.

Purpose: Personal use rules.

Citation of Existing Rules Affected by this Order: Amending WAC 220-56-325.

Statutory Authority for Adoption: RCW 75.08.080.

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The spot shrimp resource in Shrimp District One is depressed and requires protection. Release of spot shrimp in this area will facilitate recovery. The coonstripe shrimp resource also requires protection. A reduced recreational season will help to maintain an adequate spawning population.

Effective Date of Rule: May 16, 1995.

May 12, 1995
Judith Freeman
Deputy
for Robert Turner
Director

NEW SECTION

WAC 220-56-32500C Shrimp—Areas and seasons. Notwithstanding the provisions of WAC 220-56-325, effective immediately until further notice, it is unlawful to harvest shrimp for personal use from Shrimp District One except as provided for in this section:

(1) Effective May 16, 1995 through July 15, 1995, it is unlawful to retain spot shrimp taken from the waters of Shrimp District One. All spot shrimp must be immediately returned to the water unharmed.

(2) Effective July 16, 1995 until further notice, it is unlawful to harvest any shrimp taken for personal use from the waters of Shrimp District One.

WSR 95-11-068
EMERGENCY RULES
EXECUTIVE ETHICS BOARD
[Filed May 15, 1995, 10:30 a.m.]

Date of Adoption: January 13, 1995.

Purpose: To implement chapter 42.52 RCW which establishes ethical standards for state officers and employees. The rules set out the basic organizational and procedural rules of the Executive Ethics Board.

Statutory Authority for Adoption: RCW 42.52.360 (2)(b).

Pursuant to RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; and that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: The ethical standards established in chapter 45.52 [42.52] RCW went into effect on January 1, 1995. The Executive Ethics Board is responsible for enforcing those standards with regard to state officers and employees in the executive branch of government. The emergency rules set out basic organizational and procedural rules for the board. The rules are necessary for the preservation of the public health, safety and general welfare because citizens need to know about the operation of the board and the procedure for filing a complaint in order to make chapter 42.52 RCW effective. Since the board is a new agency, observing the time requirements of notice and opportunity to comment would leave a significant gap that would limit the effectiveness of chapter 42.52 RCW. The emergency rules are necessary to implement the law while the board goes through the procedure of adopting permanent rules. The emergency rules are also required by state law. RCW 42.52.360 (2)(b) provides that the board shall adopt rules governing the conduct of business of the board. Since the board began conducting business on January 1, 1995, it must put basic rules in place immediately under RCW 42.52.360 (2)(b) while it goes through the process of adopting permanent rules, which it is still in the process of completing.

Effective Date of Rule: Immediately.

May 12, 1995
Reverend Cheryl L. J. Rohret
Chair of the Board

Chapter 292-100 WAC
AGENCY PROCEDURAL RULES

NEW SECTION

WAC 292-100-010 Definitions. In general, words are used with this title in the same meaning as they are used in the law relating to ethics, chapter 42.52 RCW. See, in particular, RCW 42.52.010. The following words are used with the meaning given, unless the context clearly indicates another meaning.

(1) "Administrative Procedure Act" means chapter 34.05 RCW.

(2) "Chairperson" means the chairperson of the board.

(3) "Vice Chair" means the vice chair of the board.

(4) "Clerk" means the clerk of the board appointed pursuant to WAC 292-100-020(2).

(5) "Board" means the Washington executive ethics board.

(6) "Complainant" means a person who has filed a complaint under authority of RCW 42.52.410.

(7) "Complaint" means a formal complaint filed with the board pursuant to RCW 42.52.410 and these rules.

(8) "Member" means a member of the board, except where the context indicates another meaning is intended.

(9) "Respondent" means one against whom a complaint has been filed under authority of RCW 42.52.410.

NEW SECTION

WAC 292-100-020 Organization and operations. (1) Membership. The Washington executive ethics board consists of five members appointed by the governor for staggered five-year terms.

(2) Officers. The board shall annually elect a chairperson from its members. The chairperson shall preside over board meetings. The board may annually elect a vice chair from its members. The vice chair will carry out the duties of the chairperson if the chairperson is absent or unable to carry out the duties of the chairperson.

(3) Meetings. The board holds regular meetings commencing at 9:30 a.m. on the second Friday of each month, at various places throughout the state. The places and dates of the meetings can be learned by writing or calling the board clerk at the Olympia office at (206) 586-3751.

(4) Quorum. Three members constitute a quorum. The affirmative vote of a majority of those present is action of the board when there is a quorum at a meeting.

(5) Offices. The board's office is 1125 Washington Street, Post Office Box 40100, Olympia, Washington 98504-0100.

(6) Where to obtain information. Information on the application of the ethics law and related material is available from the clerk of the board at the board's Olympia office.

(7) Where to make submissions or requests. Submissions, requests, or complaints to the board may be directed to the clerk of the board at the board's Olympia office.

NEW SECTION

WAC 292-100-030 Authority of executive ethics board. (1) The executive ethics board shall enforce this chapter and rules adopted under it with respect to state-wide elected officers and all other officers and employees in the executive branch, boards and commissions, and institutions of higher education.

(2) The executive ethics board shall:

(a) Develop educational materials and training;

(b) Adopt rules and policies governing the conduct of business by the board, and adopt rules defining working hours for purposes of RCW 42.52.180 and where otherwise authorized in chapter 42.52 RCW;

(c) Issue advisory opinions;

(d) Investigate, hear, and determine complaints by any person or on its own motion;

(e) Impose sanctions including reprimands and monetary penalties;

(f) Recommend to the appropriate authorities suspension, removal from position, prosecution, or other appropriate remedy; and

(g) Establish criteria regarding the levels of civil penalties appropriate for violations of this chapter and rules adopted under it.

(3) The board may:

(a) Issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing;

(b) Administer oaths and affirmations;

(c) Examine witnesses; and

(d) Receive evidence.

(4) The executive ethics board may review and approve agency policies as provided for in this chapter.

NEW SECTION

WAC 292-100-040 Clerk. (1) **Designation.** The board shall designate a staff member provided by the attorney general's office to serve as clerk of the board.

(2) **Duties.** The clerk shall:

(a) Attend board meetings and provide aid and services to the chairperson and members as requested;

(b) Keep custody of the minutes of board meetings, declaratory rulings, rule-making orders, and the board's order register, and other records of action by the members.

(c) Act as rules coordinator for the board in compliance with RCW 34.05.312.

NEW SECTION

WAC 292-100-050 Advisory opinions. The board shall issue written opinions to persons who request advice as to the application of the state ethics laws. The opinions shall not be inconsistent with the statute, or the regulations or policies of the board. The counsel to the board may provide advisory opinions to the board.

NEW SECTION

WAC 292-100-060 Complaints and investigations. (1) Any person may file a complaint with the board alleging violation of chapter 42.52 RCW or rules adopted under it. A complaint shall be made in writing on a form provided by the board. A complaint may be made personally or by the complainant's attorney. The complaint must be served on the clerk of the board at the board's office in Olympia.

(2) If it has reason to believe that any person has violated chapter 42.52 RCW or the rules adopted under it, the board may issue a complaint.

(3) Upon receipt of the complaint, the staff of the board shall investigate and evaluate the allegations. The investigation shall be limited to the alleged facts contained in the complaint. The result of the investigation shall be reduced to writing and the staff of the board shall make a written recommendation whether there is reasonable cause to believe that a violation of chapter 42.52 RCW or the rules adopted

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under it has been committed. The results of the written investigation by the staff of the board shall be transmitted to the board.

NEW SECTION

WAC 292-100-070 Determination of reasonable cause. Upon receipt of the report from the staff of the board, the board shall determine if there is reasonable cause to believe that a violation of chapter 42.52 RCW or the rules adopted under it has occurred. If the board determines that there is reasonable cause to believe a violation has occurred, the board shall schedule a public hearing on the merits of the complaint. If the board determines that there is not reasonable cause to believe that a violation has occurred, it shall dismiss the complaint. The written investigation by the staff of the board and the board's determination shall be provided to both the complainant and the respondent.

NEW SECTION

WAC 292-100-080 Respondent's answer to complaint. The respondent shall file a written answer to the complaint not later than 30 days after receipt of the determination by the board that there is reasonable cause to believe a violation has occurred.

NEW SECTION

WAC 292-100-090 Adoption of model rules of procedure. Part IV-Adjudicative Proceedings—chapter 34.05 RCW and model rules of procedure, chapter 10.08 WAC, adopted by the chief administrative law judge pursuant to RCW 34.05.250 are hereby adopted for use by the board. In case of conflict between chapter 34.05 RCW or the model rules of procedure and chapter 42.52 RCW, the procedural rules in chapter 42.52 RCW shall take precedence.

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 292-100-100 Decision by the board. (1) If, based on a preponderance of the evidence at the public hearing, the board finds that the respondent has violated this chapter or rules adopted under it, the board shall file an order stating findings of fact and enforcement action as authorized in chapter 42.52 RCW.

(2) If, upon the evidence at the public hearing, the board finds that the respondent has not violated chapter 42.52 RCW or rules adopted under it, the board shall state findings of fact and issue an order dismissing the complaint.

NEW SECTION

WAC 292-100-110 Sanctions. If the board finds a violation of chapter 42.52 RCW or rules adopted under it, the board may order payment of the following amounts: (1) any damages sustained by the state that are caused by the conduct constituting the violation; (2) from each person a civil penalty of up to $5,000 per violation or three times the economic value of anything received or sought in violation of chapter 42.52 RCW or rules adopted under it, whichever is greater; and (3) costs, including reasonable investigative costs, which shall be included as part of the limit under (2) of this section. The costs may not exceed the penalty imposed. The payment owed on the penalty shall reduced by the amount of costs paid.

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 95-11-092
EMERGENCY RULES
STATE BOARD OF EDUCATION
[Filed May 19, 1995, 10:44 a.m.]

Date of Adoption: May 17, 1995.

Purpose: Amend WAC 180-27-05605 in order to allow for the release of any additional funding that may become available for school construction assistance prior to July 1, 1995, and to provide for the release of any such funding pursuant to the current prioritization system rather than the old system.

Citation of Existing Rules Affected by this Order: Amending WAC 180-27-05605.

Statutory Authority for Adoption: RCW 28A.525.200.

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: It is anticipated that additional funding for state assistance in the construction of school facilities may become available for commitment and/or expenditure prior to the close of the biennium June 30, 1995. Current WAC 180-27-05605, however, contains two significant impediments to the use of any such fundings for construction projects that would have been funded last July 1 but for the lack of funding at that time: (1) The rule establishes a March 1 deadline for establishing a second priority list and releasing additional funding, and (2) the rule contains an outdated reference to the old priority system criteria in WAC 180-27-057. Therefore, unless WAC 180-27-05605 is amended (1) to eliminate the March 1 deadline no additional funding that becomes available prior to July 1, 1995, can be released for currently eligible school construction projects, and those projects will be forced into another July 1 reprioritization that may or may not result in their eligibility for 1995-96 funding due to changed circumstances since last July 1, and (2) to eliminate the outdated reference to the old priority system, those projects that would otherwise be eligible for funding under the current priority system may or may not be eligible for additional funding made available prior to July 1, 1995, contrary to the otherwise current priority system criteria.

Effective Date of Rule: Immediately.

May 17, 1995
Larry Davis
Executive Director

EMERGENCY

AMENDATORY SECTION (Amending WSR 92-24-027, filed 11/24/92, effective 12/25/92)

WAC 180-27-05605 Additional funding during a period of a priority approval process. Notwithstanding the provisions of WAC 180-27-056, if within any state fiscal year, that is the second year of a biennium, there is funding authority and revenue in excess of what is required for the priority list established pursuant to WAC 180-27-056, then there may be a subsequent priority list established ((~~on March 1 of~~)) in the same state fiscal year for the purpose of funding or encumbering funding only for those projects for which preliminary funded status had been granted prior to July 1 of that state fiscal year. The priority order shall be as per WAC ((~~180-27-058~~)) 180-27-500 through 180-27-535.

WSR 95-11-098
EMERGENCY RULES
BELLEVUE COMMUNITY COLLEGE
[Filed May 22, 1995, 1:50 p.m., effective May 22, 1995]

Date of Adoption: May 9, 1995.

Purpose: To bring the college refund policy into compliance with SSB 6002 enacted April 13, 1995.

Citation of Existing Rules Affected by this Order: Amending WAC 132H-160-182.

Statutory Authority for Adoption: RCW 28B.50.140.

Pursuant to RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: Provisions in SSB 6002 require different lengths of time and percentages for refunds than in the college's existing WAC code governing refunds. The amendment will allow the college to adequately notify students of the change in policy while complying with the new state law.

Effective Date of Rule: May 22, 1995.

May 18, 1995
Elise J. Erickson
Executive Assistant to the President
Secretary to the Board of Trustees

AMENDED SECTION [(Amending WSR 94-01-181, filed 12/22/93)]

WAC 132H-160-182 Student schedule changes — Refund policy and administrative fees. Community College District VIII board of trustees has authorized the registrar to collect an administrative fee when a student adds or drops course(s) or withdraws from the college. In addition, the registrar is also authorized to refund fees when a student withdraws from college or a course(s). The registrar has the authority to make judgments regarding refunds in extraordinary circumstances. A student who is requested to withdraw for disciplinary reasons will not be eligible for a refund. Refund provisions for students receiving Title IV Federal aid are described in WAC 132H-160-185, Refund for Title IV Federal Aid Recipients.

Tuition and related fees for fall, winter, and spring quarters are refunded upon withdrawal from college or a course(s) as follows:

(1) Tuition and fees will be refunded at 100% prior to the third instructional day of the quarter for complete withdrawal from college, withdrawal from a course(s) (reduction of class load below 10 credits), and for classes the college has cancelled.

(2) Tuition and fees will be refunded at ~~50%~~ 80% beginning with instructional ~~from~~ day three through ~~the fourth week~~ instructional day five of the quarter for complete withdrawal from college or withdrawal from a course(s) (reduction of class load below 10 credits).

(3) Tuition and fees will ~~not~~ be refunded ~~after the fourth week of the quarter~~ at 50% beginning with instructional day six of the quarter through calendar day twenty of the quarter for complete withdrawal from college, withdrawal from a course(s) (reduction of class load below 10 credits).

(4) Tuition and fees will not be refunded after calendar day twenty of the quarter. Tuition and related fees for summer quarter are refunded upon withdrawal from college or a course(s) as follows:

Tuition and related fees for summer quarter are refunded upon withdrawal from college or a course(s) as follows:

(5) Tuition and fees will be refunded at 100% prior to the second instructional day of the quarter for withdrawal from college, withdrawal from a course(s) (reduction of class load below 10 credits), and for classes the college has canceled.

(6) Tuition and fees will be refunded at 80% beginning with instructional day two of the quarter through instructional day three of the quarter for withdrawal from college, or withdrawal from a course(s) (reduction of class load below 10 credits).

(7) Tuition and fees will be refunded at 50% beginning with instructional day four of summer quarter through calendar day ten the quarter for withdrawal from college, or withdrawal from a course(s) (reduction of class load below 10 credits).

(8) Tuition and fees will not be refunded after calendar day ten of the quarter.

~~(4)~~ (9) If an insurance claim has been filed, no refund will be granted for insurance fees.

~~(5)~~ (10) Self support programs may develop different refund policies based upon programmatic reasons, with institutional approval. Policies pertaining to these programs will be listed in the quarterly schedule.

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

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.

EMERGENCY

WSR 95-11-002
HEALTH SERVICES COMMISSION
[Filed May 4, 1995, 8:01 a.m.]

HEALTH SERVICES COMMISSION

In the Matter of:)
) NOTICE OF HEARING
PALOUSE HEALTHCARE)
NETWORK, INC.)

TO: Randall L. Stamper, STAMPER, SHERMAN, STOCKER, & SMITH, P.S. Suite 200 Post Place, 720 West Boone, Spokane WA, Counsel for Petitioner

Palouse Healthcare Network, Inc. has filed a petition to approve certain conduct pursuant to the provision of RCW 43.72.310. The Health Services Commission appoints Tom Hilyard, pursuant to the provision of WAC 245-02-165, to serve as the Presiding Officer in this matter. The hearing is scheduled for June 13, 1995, at 10 a.m. at the Office of the Attorney General (1116 West Riverside, Spokane, Washington) in the Large Conference Room.

On or before May 25, 1995, Petitioner shall serve two copies of a Brief on the Health Services Commission that addresses, with specificity, the factors set forth in RCW 43.72.310(4). Respondent's Brief must be served on the Petitioner and the Presiding Officer on or before June 8, 1995.

DATED this 2nd day of May, 1995.

BERNIE DOCHNAHL, Chair
Health Services Commission

NOTICE OF PETITION TO APPROVE CERTAIN CONDUCT-IN THE MATTER OF PALOUSE HEALTHCARE NETWORK, INC.

Palouse Healthcare Network, Inc., has petitioned the Washington State Health Services Commission to approve certain conduct pursuant to the provisions of RCW 43.72.310 and WAC 245-02-130 et seq., which could lessen competition in the relevant market. Consistent with WAC 245-02-131, the Health Services Commission is soliciting comments from the public on the petition.

The conduct that is the subject of the Petition can generally be described as follows:

The Palouse Healthcare Network, Inc. (Network), is a nonprofit corporate joint venture that will be based out of the Pullman Memorial Hospital. The Network will be comprised of two classes of membership; the Whitman County Public Hospital District No. 1-A, d/b/a Pullman Memorial Hospital, and the Whitman Medical Center, located in Moscow, Idaho, are the two hospital members. There are currently twenty-five physician members from Moscow and Pullman, with an additional nine members expected to join from the Health and Wellness Service in Pullman.

The Network will contract with health care purchasers for delivery of services and will provide certain administrative services for its members, including claims processing, centralized UR/QA and joint credentialling. It is also possible that in the future the Network will seek to become a Certified Health Plan.

Geographically, the Network will primarily service Latah County, Idaho, and Whitman County, Washington.

Of the twenty-five current physician members, there are eighteen primary care physicians, including those comprising the two major primary care clinics in Moscow and Pullman. Nine members of the Health and Wellness Clinic in Pullman are expected to join.

There are currently seven specialists, including a urologist, a psychiatrist, a surgeon, two radiologists, an ENT specialist and a pediatrician. The specialists have patients from throughout Latah and Whitman Counties.

Written comments may be filed with Tom Hilyard, Health Services Commissioner, P.O. Box 41185, Olympia, WA 98504-1185, and must be received by June 12, 1995.

WSR 95-11-009
NOTICE OF PUBLIC MEETINGS
WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD
[Memorandum—May 5, 1995]

MEETING NOTICE

WASHINGTON STATE
WORKFORCE TRAINING AND
EDUCATION COORDINATING BOARD
MEETING NO. 36
MAY 25, 1995

PUGET SOUND HIGH SCHOOL
SCIENCE ROOM
5900 54TH AVENUE S.E.
LACEY, WA 98513
(360) 493-2977

May 25, 1995, Puget Sound High School, Science Room, 8:30 a.m. - 1:30 p.m., the Workforce Training and Education Coordinating Board (WTECB) will hold a regular business meeting on Thursday, May 25, 1995, beginning at 8:30 a.m. The meeting will be held at Puget Sound High School in Lacey, Washington.

The board will take action on the following agenda items: "High skills, high wages" implementation with regard to accountability, school-to-work transition implementation grant application, and Carl D. Perkins Vocational and Applied Technology Education Act.

The board will also review and take action on the program operating plans of the Employment Security Department and the State Board for Community and Technical Colleges.

The meeting site is barrier free. People needing special accommodations, please call Anne Townsend at least ten days in advance at (360) 753-5677.

WSR 95-11-010
NOTICE OF PUBLIC MEETINGS
PENINSULA COLLEGE
[Memorandum—May 4, 1995]

The board of trustees of Community College District #1, Peninsula College met for their regular meeting on May 2, 1995, and approved the following adjustments to the 1995 calendar:

January 10	1:00 p.m.	Port Angeles
February 7	1:00 p.m.	Port Angeles
March 14	1:00 p.m.	Port Angeles
April 11	1:00 p.m.	Port Townsend

May 2	1:00 p.m.	Port Angeles
June 13	1:00 p.m.	Port Angeles
*July 25	1:00 p.m.	Port Angeles
*August	No meeting	
September 12	1:00 p.m.	*Clallam Bay
*October 3	1:00 p.m.	Sequim
November 14	*9:00 a.m. work session board meeting 1:00 p.m.	Port Angeles
December 12	1:00 p.m.	Port Angeles

*denotes change in schedule.

WSR 95-11-011
NOTICE OF PUBLIC MEETINGS
SOUTH PUGET SOUND COMMUNITY COLLEGE
[Memorandum—May 4, 1995]

At their May 3, 1995, regular meeting, the board of trustees of Community College District 24, adopted the following 1995-96 board meeting schedule.

Regular Meeting Schedule
1995-96

DATE	TIME
Thursday, July 6, 1995	3:00 p.m.
Thursday, August 31, 1995	3:00 p.m.
No meeting September 1955 [1995]	
Thursday, October 5, 1995	3:00 p.m.
Thursday, November 2, 1995	3:00 p.m.
Thursday, December 7, 1995	3:00 p.m.
Thursday, January 4, 1996	3:00 p.m.
Thursday, February 1, 1996	3:00 p.m.
Thursday, March 7, 1996	3:00 p.m.
Thursday, April 4, 1996	3:00 p.m.
Thursday, May 2, 1996	3:00 p.m.
Thursday, June 6, 1996	3:00 p.m.

MISCELLANEOUS

WSR 95-11-012
NOTICE OF PUBLIC MEETINGS
COMMISSION ON JUDICIAL CONDUCT
[Memorandum—May 3, 1995]

The Commission on Judicial Conduct business meeting location, previously scheduled to be held at 11:00 a.m. at the SeaTac Holiday Inn, 17338 Pacific Highway South, SeaTac, WA 98188, has been changed. The meeting will now be held at 11:00 a.m. at the SeaTac Red Lion, 18740 Pacific Highway South, SeaTac, WA 98188.

WSR 95-11-013
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—May 4, 1995]

The Edmonds Community College board of trustees has adjourned the April 24 special meeting to May 8, 1995, at 4:30 p.m. to be held in the Edmonds Community College Board Room, Sno-King Building 103, at the Edmonds Community College campus.

This special meeting is for the purpose of an executive session to review the performance of a public officer or employee and to discuss with legal counsel representing the college advice and counsel concerning adverse and legal or financial consequences to the agency resulting from allegations against a public officer or employee of the college. Action items, if any, may be necessary to be taken as a result of matters considered in this executive session.

WSR 95-11-016
NOTICE OF PUBLIC MEETINGS
BELLINGHAM TECHNICAL COLLEGE
[Memorandum—May 8, 1995]

The board of trustees of Bellingham Technical College will meet in a special session to discuss budget development, the continuing education refund policy, and personnel matters on Thursday, May 25, 1995, 9-11 a.m., in the College Services Building Board Room on the Bellingham Technical College campus. Call 738-3105 extension 334 for information.

WSR 95-11-017
LOWER COLUMBIA COLLEGE
[Filed May 8, 1995, 9:10 a.m.]

Lower Columbia College is not planning to make any major changes to its Washington Administrative Code rules during the coming fiscal year.

Virginia M. Koken, CPS
Administrative Assistant
to the President/Rules Coordinator

WSR 95-11-018
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION IMPROVEMENT BOARD
[Memorandum—May 5, 1995]

MEETING NOTICE FOR MAY 1995
TRANSPORTATION IMPROVEMENT BOARD
OLYMPIA, WASHINGTON 98504-0901

Mitigation subcommittee, 11:00 a.m. - noon, Thursday, May 25, 1995, in Walla Walla at the Comfort Inn, 520 North Second Avenue.

TIB public transportation and STP subcommittee, 1:00 p.m. - 3:00 p.m., at the Comfort Inn.

Increase subcommittee, 3:00 p.m. - 5:00 p.m., Thursday, May 25, 1995, at the Comfort Inn.

Work session, 7:00 p.m., Thursday, May 25, 1995, at the Comfort Inn.

Board meeting, 9:00 a.m., Friday, May 26, 1995, at the Comfort Inn.

SPECIAL NEEDS: For special accommodations or to request an auxiliary aid, please contact the Transportation Improvement Board office at (360) 705-7300 by May 15, 1995.

The next scheduled meeting is June 16, 1995. A notice with further detail of the June meeting will be mailed May 26, 1995.

WSR 95-11-026
NOTICE OF PUBLIC MEETINGS
COUNCIL ON
VOCATIONAL-TECHNICAL EDUCATION
[Memorandum—May 9, 1995]

Thursday - May 18, 1995
Room H-105
Renton Technical College - Renton
(9:00 a.m. - 3:30 p.m.)

The meeting site is barrier free. People needing special accommodations should contact the council office at (360) 753-3715.

WSR 95-11-044
NOTICE OF PUBLIC MEETINGS
MULTIMODAL TRANSPORTATION
PROGRAMS AND PROJECTS
SELECTION COMMITTEE
[Memorandum—May 10, 1995]

The Multimodal Transportation Projects and Programs Committee has rescheduled the special meeting of Friday, May 19, 1995, to Friday, June 9, 1995. The meeting will be held at the Holiday Inn, SeaTac, 17338 International Boulevard, SeaTac, WA in the SeaTac Room on the 12th Floor, 9:00 a.m. - 3:00 p.m.

The purpose of the meeting is to approve final selection of projects for the 1995-97 Central Puget Sound public transportation account (CPSPTA); approve final selection of projects of the 1996 statewide STP competitive program; approve CPSPTA and public transportation systems account (PTSA) program guidelines; approve revised application guidelines and applications for the CPSPTA and the PTSA; and other miscellaneous matters as requested by the committee.

WSR 95-11-054
NOTICE OF PUBLIC MEETINGS
COUNTY ROAD ADMINISTRATION BOARD
[Memorandum—May 9, 1995]

MEETING NOTICE:

July 13, 1995
I-90 Inn
1390 Dollar Way
Ellensburg, WA 98926
1:00 p.m. - 5:00 p.m.

July 14, 1995
I-90 Inn
1390 Dollar Way
Ellensburg, WA 98926
8:00 a.m. - 12:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

WSR 95-11-055
NOTICE OF PUBLIC MEETINGS
UNIVERSITY OF WASHINGTON
[Memorandum—May 9, 1995]

Following is the schedule(s) for regular meetings to be held by the University of Washington's School of Pharmacy Faculty.

School of Pharmacy
Faculty Meeting

Meeting Dates	Location	Time
May 22, 1995	HSB H375	9:30
June 26, 1995	HSB H375	9:30
July 24, 1995	HSB H375	9:30
September 25,1995	HSB H375	9:30
October 23, 1995	HSB H375	9:30
November 27, 1995	HSB H375	9:30
December 18, 1995	HSB H375	9:30

WSR 95-11-057
NOTICE OF PUBLIC MEETINGS
CONVENTION AND TRADE
CENTER
[Memorandum—May 10, 1995]

A regular meeting of the board of directors of the Washington State Convention and Trade Center will be held on Wednesday, May 17, 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 95-11-083
NOTICE OF PUBLIC MEETINGS
DEPARTMENT OF COMMUNITY,
TRADE AND ECONOMIC DEVELOPMENT
(Affordable Housing Advisory Board)
[Memorandum—May 15, 1995]

For public information and notification, the Affordable Housing Advisory Board has changed its meeting from June 21, 1995, to May 31, 1995, in Spokane, Washington.

This meeting date was changed to accommodate with a housing affordability conference being held in Spokane on June 1 and 2, 1995.

WSR 95-11-094
ATTORNEY GENERAL OPINION
Cite as: AGO 1995 No. 6.
[April 27, 1995]

TAXATION - PROPERTY - EXEMPTIONS - PROPERTY JOINTLY OWNED BY A CITY AND A PRIVATE CORPORATION

A coliseum owned jointly by a private corporation and a city is neither wholly nor partially exempted from state and local property taxes under article 7, section 1 of the state constitution or RCW 84.36.010.

Requested by:
The Honorable Andrew K. Miller
Benton County Prosecuting Attorney
7320 W Quinault
Kennewick, WA 99336-7693

WSR 95-11-099
NOTICE OF PUBLIC MEETINGS
EASTERN WASHINGTON UNIVERSITY
[Memorandum—May 22, 1995]

Eastern Washington University
Board of Trustees
May 26, 1995, 9:00 a.m.
Spokane Center, Second Floor Mall

Breakfast, which is open to the public, will be served to board members prior to the meeting at 8:00 a.m. in the Spokane Center Board Room, Room 222.

Eastern Washington University strives to satisfy all requests for special access needs for persons with disabilities. Requests for such accommodation are welcome and may be made by calling President's Office, 359-2371.

WSR 95-11-100
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—May 19, 1995]

The Edmonds Community College board of trustees is convening a special meeting May 23 at 8:00 a.m. to be held in the board of trustees meeting room, Sno-King Building, Room 103, at the Edmonds Community College campus.

The special meeting is for the purpose of an executive session to evaluate the qualifications of an applicant for public employment or to review the performance of a public employee.

Action items, if any, may be necessary to be taken as a result of matters considered in this executive session.

WSR 95-11-103
NOTICE OF PUBLIC MEETINGS
HARDWOODS COMMISSION
[Memorandum—May 19, 1995]

The Washington Hardwoods Commission will be having its 1995 annual meeting on June 15, 1995, at the Red Lion in Port Angeles. The regular business meeting is scheduled to start at 3:30 p.m.

WSR 95-11-104
NOTICE OF PUBLIC MEETINGS
TRANSPORTATION COMMISSION
[Memorandum—May 18, 1995]

The June 1995 Washington State Transportation Commission meetings will be held at 9:00 a.m. on Wednesday, June 14, and 9:00 a.m. on Thursday, June 15, 1995, in the City Council Chambers of Port Angeles City Hall, 321 East 5th, Port Angeles, WA. In addition, the commission will also hold an HOV policy workshop on June 13, 1995, in the small auditorium at Sea-Tac International Airport, call the commission office at (360) 705-7070 for further information.

The July 1995 Washington State Transportation Commission meeting will be held at 9:00 a.m. on Wednesday, July 19, and 9:00 a.m. on Thursday, July 20, 1995, in the Transportation Commission Room (1D2), Transportation Building, Olympia, Washington.

WSR 95-11-105
NOTICE OF PUBLIC MEETINGS
EDMONDS COMMUNITY COLLEGE
[Memorandum—May 23, 1995]

Board of Trustees Meeting
May 25, 1995
Sno-King Building
Room 103
(4:30 - 6:30)

The facilities for this meeting are free of mobility barriers and interpreters for deaf individuals and braille or taped information for blind individuals will be provided upon request when adequate notice is given.

WSR 95-11-112
PUGET SOUND
WATER QUALITY AUTHORITY
[Filed May 23, 1995, 1:38 p.m.]

PROPOSED PLAN AMENDMENT AND PUBLIC HEARING
PUGET SOUND WATER QUALITY AUTHORITY

Title of Plan: 1994 Puget Sound Water Quality Management Plan.

Purpose: Amend the 1994 Puget Sound Water Quality Management Plan.

Statutory Authority for Adoption: Chapter 90.70 RCW and Section 320 of the federal Clean Water Act, as amended by P.L. 100-4, the Water Quality Act of 1987, 33 U.S.C. 1330.

Statute Being Implemented: Chapter 90.70 RCW and Section 320 of the federal Clean Water Act, as amended by P.L. 100-4, the Water Quality Act of 1987, 33 U.S.C. 1330.

Summary of Proposed Amendment: Amends the Wetlands Protection Program of the 1994 Puget Sound Water Quality Management Plan. This program calls on local governments to protect wetlands through land use planning, preservation, restoration, education, program evaluation, and regulation. Element W-2.1 recommends that local government regulatory programs determine the presence and establish the boundaries of individual wetlands through use of the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands." The proposed amendment deletes the reference (in W-2.1, section 4.c. on page 158) to a specific version of the manual and recommends that local governments use the same, or technically equivalent, manual as the Department of Ecology. This will allow use of the most current science without further amending the Puget Sound Plan.

State Environmental Policy Act Compliance: The Puget Sound Water Quality Authority will file a Declaration of Non-Significance on this proposal.

Name of Proponent: Puget Sound Water Quality Authority, governmental.

Name of Agency Personnel Responsible for Drafting and Implementing the Proposal: Ginny Broadhurst, PSWQA, 300 Desmond Drive, Lacey, WA. Mailing Address: P.O. Box 40900, Olympia, WA. 98504-0900. Telephone: (206) 407-7300 or 1-800-54-SOUND. FAX: (206) 407-7333.

Public Hearing: A public hearing will be held at 1:00 p.m., June 28, 1995 at the Snohomish County Courthouse, Kanard Conference Room, 3000 Rockefeller, Everett, WA. Persons planning to attend the hearing should call the Authority offices at the number listed above prior to the hearing date to check on any last-minute changes in the hearing date, place, or time.

Submit Written Comments to: Ginny Broadhurst, at the address listed above. Written comments must be RECEIVED by 5:00 pm, July 7, 1995.

Date of Intended Adoption: July 19, 1995.

May 24, 1995
Duane Fagergren
for Nancy McKay
Executive Director

WSR 95-11-114
NOTICE OF PUBLIC MEETINGS
STATE BOARD OF EDUCATION
[Memorandum—May 23, 1995]

The State Board of Education schedule of meeting dates and locations for the 1995 calendar year, filed with the state code reviser on February 28, 1995, WSR 95-06-058, is amended as follows:

The dates of the July meeting have been changed to:

July 18-21, 1995
Coupeville Middle and High School
Library
501 South Main
Coupeville, WA 98239
(360) 678-4409

and address correction to the September 20-22, 1995, meeting:

Department of Labor and Industries
Auditorium
7273 Linderson Way S.W.
Tumwater, WA 98501
(360) 902-5800

SCHEDULE OF REGULAR MEETING DATES AND LOCATIONS
1995 CALENDAR YEAR

January 25-27, 1995	Educational Service District 113 Thurston Room 601 McPhee Road S.W. Olympia, WA 98502-5080 (360) 586-2933
March 22-24, 1995	North Thurston School District Board Room 305 College Street N.E. Lacey, WA 98516-5390 (360) 493-9002
May 17-19, 1995	Saint Martin's College Worthington Conference Center 5300 Pacific Avenue S.E. Lacey, WA 98503 (360) 491-4700
July 18-21, 1995	Coupeville Middle and High School Library 501 South Main Coupeville, WA 98239 (360) 678-4409
September 20-22, 1995	Department of Labor & Industries Auditorium 7273 Linderson Way S.W. Tumwater, WA 98501 (360) 902-5800
November 15-17, 1995	Spokane School District Board Room No. 101 200 North Bernard Spokane, WA 99201-0282 (509) 353-5242

Revised 5/95

MISCELLANEOUS

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.

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1-21	PREP	95-11-115
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16-101-700	AMD-P	95-10-020
16-101-700	AMD-W	95-11-082
16-144-001	AMD-E	95-10-049
16-144-015	NEW-E	95-10-049
16-158	PREP	95-07-015
16-158	AMD-P	95-10-098
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16-585-060	NEW-P	95-05-071
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51-20-0300	REP-P	95-04-106
51-20-0300	REP	95-11-107
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51-21-38039	REP	95-11-107
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55-01-030	AMD-E	95-04-075
55-01-040	AMD-E	95-04-075
55-01-050	AMD-E	95-04-075
55-01-060	AMD-E	95-04-075
55-01-070	AMD-E	95-04-075
60-12-010	PREP	95-04-090
60-12-010	AMD-P	95-06-085
60-12-010	AMD	95-10-097
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67-25-390	AMD	95-06-057
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67-25-396	AMD	95-06-057
67-25-398	NEW	95-06-057
67-25-399	NEW	95-06-057
67-25-400	AMD	95-06-057
67-25-404	AMD	95-06-057
67-25-408	AMD	95-06-057
67-25-412	AMD	95-06-057
67-25-416	AMD	95-06-057

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67-25-436	NEW	95-06-057
67-25-440	AMD	95-06-057
67-25-444	AMD	95-06-057
67-25-446	AMD	95-06-057
67-25-448	AMD	95-06-057
67-25-452	AMD	95-06-057
67-25-500	REP	95-06-057
67-25-505	REP	95-06-057
67-25-510	REP	95-06-057
67-25-525	REP	95-06-057
67-25-530	REP	95-06-057
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67-25-545	AMD	95-06-057
67-25-550	AMD	95-06-057
67-25-560	AMD	95-06-057
67-25-570	AMD	95-06-057
67-25-590	AMD	95-06-057
67-35-030	PREP	95-04-012
67-35-030	AMD-P	95-05-040
67-35-210	PREP	95-04-012
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67-35-215	PREP	95-04-012
67-35-215	NEW-P	95-05-040
67-35-220	PREP	95-04-012
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67-35-350	PREP	95-04-012
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67-35-360	PREP	95-04-012
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67-35-430	PREP	95-04-012
67-35-430	AMD-P	95-05-040
82-50-021	AMD-P	95-11-116
130-10	PREP	95-06-051A
131-12-010	AMD-E	95-10-012
131-12-010	PREP	95-10-017
131-12-010	AMD-P	95-10-018
131-16-005	PREP	95-05-026
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131-16-005	REP	95-10-014
131-16-056	PREP	95-10-087
131-16-056	NEW-P	95-10-089
131-28-010	AMD-E	95-07-004
131-28-010	PREP	95-10-088
131-28-010	AMD-P	95-10-090
131-28-015	AMD-E	95-07-004
131-28-015	PREP	95-10-088
131-28-015	AMD-P	95-10-090
131-28-021	AMD-E	95-07-004
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131-28-025	AMD-E	95-07-004
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131-46-135	NEW	95-10-013
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132G-126-020	REP-P	95-04-008
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132I-160-110	AMD-P	95-11-102
132K-120	PREP	95-11-136
132K-130-010	PREP	95-11-137
132M-108-090	NEW-P	95-06-052
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132Q-04-078	NEW-P	95-11-021
132Q-04-097	NEW	95-03-060
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173-19-1202	PREP	95-11-087
173-19-250	PREP	95-04-101
173-19-250	AMD-P	95-07-144
173-19-2513	PREP	95-05-063
173-19-2515	PREP	95-07-020
173-19-2519	PREP	95-07-022
173-19-2521	PREP	95-07-021
173-19-2521	AMD-P	95-11-088
173-19-260	PREP	95-04-076
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173-19-280	PREP	95-11-085
173-19-3101	AMD	95-10-051
173-19-3507	AMD-S	95-03-082
173-19-3507	AMD	95-08-042
173-19-3514	AMD-P	95-03-078
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173-19-360	PREP	95-07-019
173-19-360	AMD	95-07-125
173-19-360	AMD-P	95-09-052
173-19-4005	PREP	95-11-086
173-19-420	AMD-P	95-11-089
173-19-4205	AMD-P	95-11-089
173-221A	PREP	95-07-057
173-303	PREP	95-05-062
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173-303-020	AMD-P	95-11-113

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173-400	PREP	95-06-067
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173-564-040	AMD	95-02-066
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174-116-123	PREP	95-05-010
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174-116-124	PREP	95-05-010
174-116-124	AMD-P	95-07-132

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174-116-127	PREP	95-05-010
174-116-127	AMD-P	95-07-132
178-01	PREP	95-04-016
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178-01-010	REP	95-08-008
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180-27	PREP	95-05-038
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180-29-095	PREP	95-05-037
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180-77-004	NEW-P	95-08-058
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180-78-145	AMD-P	95-08-057
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182-14-010	NEW-E	95-08-001
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182-14-070	NEW-E	95-08-001
182-14-080	NEW-E	95-08-001
182-14-090	NEW-E	95-08-001
182-14-100	NEW-E	95-08-001
182-16	PREP	95-04-057
182-18	PREP	95-04-057
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182-20-010	NEW-P	95-08-060
182-20-100	NEW-P	95-08-060
182-20-130	NEW-P	95-08-060
182-20-160	NEW-P	95-08-060
182-20-200	NEW-P	95-08-060
182-20-300	NEW-P	95-08-060
182-20-320	NEW-P	95-08-060
182-20-400	NEW-P	95-08-060
192-12	PREP	95-10-053
192-12-130	PREP	95-04-104
192-12-141	PREP	95-04-104
192-12-141	PREP	95-07-075
192-12-184	AMD-P	95-06-081
192-12-184	AMD	95-09-085
192-12-190	AMD-P	95-06-081
192-12-190	AMD	95-09-085
192-12-320	AMD-P	95-06-081
192-12-320	AMD	95-09-085
192-12-340	AMD-P	95-06-081
192-12-340	AMD	95-09-085
192-16	PREP	95-11-128
192-16-002	PREP	95-11-128
192-16-007	REP-P	95-06-081
192-16-007	REP	95-09-085
192-16-017	AMD-P	95-06-081
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192-16-019	AMD-P	95-06-081
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192-16-050	AMD	95-09-085
192-16-051	PREP	95-11-128
192-16-065	REP-P	95-06-081
192-16-065	REP	95-09-085
192-23-018	PREP	95-07-075
192-23-019	NEW-P	95-08-077
192-28-100	REP-P	98-06-081
192-28-100	REP	95-09-085
192-28-110	AMD-P	98-06-081
192-28-110	AMD	95-09-085
192-28-120	AMD-P	98-06-081
192-28-120	AMD	95-09-085
192-32-001	AMD-P	95-06-081
192-32-001	AMD	95-09-085
192-32-010	AMD-P	95-06-081
192-32-010	AMD	95-09-085
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192-32-025	AMD-P	95-06-081
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192-32-045	AMD-P	95-06-081
192-32-045	AMD	95-09-085
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192-42-021	REP	95-05-048
192-42-030	REP	95-05-048
192-42-056	REP	95-05-048
192-42-057	REP	95-05-048
192-42-058	REP	95-05-048
192-42-081	REP	95-05-048
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197-11-210	NEW	95-07-023
197-11-220	NEW	95-07-023
197-11-225	NEW-E	95-03-059
197-11-228	NEW-E	95-03-059
197-11-228	NEW	95-07-023
197-11-230	NEW-E	95-03-059
197-11-230	NEW	95-07-023
197-11-232	NEW-E	95-03-059
197-11-232	NEW	95-07-023
197-11-235	NEW-E	95-03-059
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197-11-250	NEW	95-08-041
197-11-253	NEW	95-08-041
197-11-256	NEW	95-08-041
197-11-259	NEW	95-08-041
197-11-262	NEW	95-08-041
197-11-265	NEW	95-08-041
197-11-268	NEW	95-08-041
197-11-305	AMD	95-07-023
197-11-340	AMD	95-07-023
197-11-680	AMD	95-07-023
197-11-748	REP	95-07-023
197-11-890	AMD	95-07-023
197-11-904	AMD	95-07-023
197-11-908	AMD	95-07-023
197-11-938	AMD	95-07-023
204-24-050	AMD-S	95-03-089
204-24-050	AMD	95-07-137
204-41-030	AMD-E	95-04-060
204-41-030	PREP	95-05-001
204-41-030	AMD-P	95-06-065
204-41-030	AMD	95-09-091
220-12-020	AMD	95-04-066
220-22-030	AMD-P	95-09-081
220-32-05100M	NEW-E	95-04-087
220-32-05100M	REP-E	95-07-010
220-32-05100N	NEW-E	95-07-010
220-32-05500K	NEW-E	95-09-031
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220-32-05500L	NEW-E	95-10-041
220-32-05500L	REP-E	95-11-061
220-32-05500M	NEW-E	95-11-061
220-32-05700Q	NEW-E	95-03-002
220-32-06000A	NEW-E	95-10-041
220-33-03000J	NEW-E	95-11-062
220-33-04000A	NEW-E	95-03-013
220-36-021	AMD-P	95-10-105
220-36-023	AMD-P	95-10-105
220-40-021	AMD-P	95-10-105

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220-40-027	AMD-P	95-10-105
220-44-050	AMD-P	95-06-094
220-44-050	AMD	95-08-069
220-44-05000M	REP-E	95-05-007
220-44-05000N	NEW-E	95-05-007
220-44-05000N	REP-E	95-05-021
220-44-05000P	NEW-E	95-05-021
220-44-05000P	REP-E	95-08-034
220-44-05000Q	NEW-E	95-08-034
220-44-05000Q	REP-E	95-10-001C
220-44-05000R	NEW-E	95-10-001C
220-47-262	AMD-P	95-09-081
220-47-304	AMD-P	95-09-081
220-47-307	AMD-P	95-09-081
220-47-311	AMD-P	95-09-081
220-47-401	AMD-P	95-09-081
220-47-411	AMD-P	95-09-081
220-47-412	AMD-P	95-09-081
220-49-02000H	NEW-E	95-04-088
220-52-04600A	NEW-E	95-06-001
220-52-04600A	REP-E	95-06-016
220-52-04600B	NEW-E	95-06-016
220-52-04600B	REP-E	95-07-027
220-52-04600C	NEW-E	95-09-027
220-52-04600Z	NEW-E	95-05-056
220-52-04600Z	REP-E	95-06-001
220-52-07100U	NEW-E	95-10-030
220-52-07100U	REP-E	95-10-057
220-52-07100V	NEW-E	95-10-057
220-52-07100V	REP-E	95-11-015
220-52-07100W	NEW-E	95-11-015
220-52-07300V	REP-E	95-03-064
220-52-07300W	NEW-E	95-03-067
220-52-07300W	REP-E	95-07-080
220-52-07300X	NEW-E	95-07-080
220-52-07300X	REP-E	95-07-119
220-52-07300Y	NEW-E	95-07-119
220-56	AMD-C	95-04-064
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220-56-115	AMD	95-04-066
220-56-116	AMD	95-04-066
220-56-125	REP	95-04-066
220-56-127	REP	95-04-066
220-56-130	AMD	95-04-066
220-56-180	AMD	95-04-066
220-56-185	AMD	95-04-066
220-56-19100H	REP-E	95-02-069
220-56-19100I	NEW-E	95-02-069
220-56-19100I	REP-E	95-10-006
220-56-19100J	NEW-E	95-10-006
220-56-205	AMD	95-04-066
220-56-210	AMD	95-04-066
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220-56-235	AMD	95-04-066
220-56-240	AMD	95-04-066
220-56-265	AMD	95-04-066
220-56-282	AMD	95-04-066
220-56-28500D	NEW-E	95-05-049
220-56-28500E	NEW-E	95-10-001B
220-56-310	AMD	95-04-066
220-56-312	AMD	95-04-066
220-56-32500B	NEW-E	95-10-056
220-56-32500C	NEW-E	95-11-065
220-56-335	AMD	95-04-066
220-56-340	AMD	95-04-066
220-56-35000C	REP-E	95-04-086
220-56-35000D	NEW-E	95-04-086
220-56-35000D	REP-E	95-10-040
220-56-35000E	NEW-E	95-10-040
220-56-36000M	NEW-E	95-07-028
220-56-36000M	REP-E	95-10-104
220-56-36000N	NEW-E	95-10-104
220-56-365	AMD	95-04-066
220-56-370	AMD	95-04-066
220-56-38000W	REP-E	95-04-086
220-56-38000X	NEW-E	95-04-086
220-56-38000X	REP-E	95-10-040
220-56-38000Y	NEW-E	95-10-040
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220-57-16000Z	NEW-E	95-05-049
220-57-16000Z	REP-E	95-08-037
220-57-17500B	NEW-E	95-05-049
220-57-27000A	NEW-E	95-11-063
220-57-29000R	NEW-E	95-08-037
220-57-31000N	NEW-E	95-05-049
220-57-31500A	NEW-E	95-08-037
220-57-31900I	NEW-E	95-05-049
220-57-49700J	NEW-E	95-08-037
220-57-50500X	NEW-E	95-08-037
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220-95-011	REP-P	95-03-088
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220-95-022	NEW-P	95-03-088
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220-95-027	NEW-P	95-03-088
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220-95-032	NEW-P	95-03-088
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222-16-010	AMD-E	95-04-074
222-16-010	AMD-E	95-11-052
222-16-075	NEW-C	95-04-073
222-16-080	AMD-C	95-04-073
222-16-080	AMD-E	95-04-074
222-16-080	AMD-E	95-11-052
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222-21-020	NEW-C	95-04-073
222-21-030	NEW-C	95-04-073
222-21-040	NEW-C	95-04-073
222-24-030	AMD-C	95-04-073
222-24-030	AMD-E	95-04-074
222-24-030	AMD	95-11-052
222-30-050	AMD-C	95-04-073
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222-30-050	AMD-E	95-11-052
222-30-060	AMD-C	95-04-073
222-30-060	AMD-E	95-04-074
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222-30-075	NEW-C	95-04-073
222-30-075	NEW-E	95-04-074
222-30-075	NEW-E	95-11-052
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222-30-100	AMD-E	95-04-074
222-30-100	AMD-E	95-11-052
222-38-020	AMD-C	95-04-073
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222-38-020	AMD-E	95-11-052
222-38-030	AMD-C	95-04-073
222-38-030	AMD-E	95-04-074
222-38-030	AMD-E	95-11-052
230-02-010	AMD-P	95-04-043
230-02-010	AMD	95-07-095
230-02-125	REP-P	95-06-012
230-02-125	REP	95-09-061
230-02-183	AMD-P	95-04-039
230-02-183	AMD	95-07-093
230-02-240	AMD-P	95-04-037
230-02-240	AMD-C	95-07-099
230-02-240	AMD	95-09-062
230-02-350	AMD-P	95-04-038
230-02-350	AMD	95-07-094
230-02-360	AMD-P	95-04-038
230-02-360	AMD	95-07-094
230-02-370	AMD-P	95-04-038
230-02-370	AMD	95-07-094
230-02-380	AMD-P	95-04-038
230-02-380	AMD	95-07-094
230-02-418	AMD-P	95-04-037
230-02-418	AMD-C	95-07-099
230-02-418	AMD	95-09-062
230-04-075	AMD-P	95-07-111
230-04-080	AMD-P	95-04-038
230-04-080	AMD	95-07-094
230-04-110	AMD-E	95-07-064
230-04-110	AMD-P	95-07-098
230-04-115	NEW-E	95-07-064
230-04-115	NEW-P	95-07-098
230-04-145	AMD-P	95-04-037
230-04-145	AMD-C	95-07-099
230-04-145	AMD	95-09-062
230-04-147	AMD-P	95-04-037
230-04-147	AMD-C	95-07-099
230-04-147	AMD	95-09-062
230-04-203	AMD-E	95-07-064
230-04-203	AMD-P	95-07-098
230-04-280	AMD-C	95-04-040
230-04-280	AMD-C	95-06-013
230-04-280	AMD-C	95-07-097
230-04-400	AMD-C	95-04-040
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230-04-400	AMD-C	95-07-097
230-04-405	NEW-P	95-07-110
230-08-070	AMD-P	95-04-039
230-08-070	AMD	95-07-093
230-08-130	AMD-P	95-04-038
230-08-130	AMD	95-07-094
230-08-160	AMD-P	95-04-038
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230-12-075	REP-P	95-06-012
230-12-075	REP	95-09-061
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230-12-079	NEW	95-09-062
230-20-070	AMD-P	95-04-037
230-20-070	AMD-C	95-07-099
230-20-070	AMD	95-09-062
230-20-090	AMD-P	95-07-111
230-20-130	AMD-P	95-06-010
230-20-130	AMD	95-09-064
230-20-170	AMD-P	95-07-111
230-20-190	AMD-P	95-07-111
230-20-220	AMD-P	95-07-111
230-20-300	AMD-P	95-04-039

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230-20-325	AMD-P	95-04-039
230-20-325	AMD	95-07-093
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230-20-335	NEW	95-07-093
230-20-620	AMD-P	95-06-010
230-20-620	AMD	95-09-064
230-20-630	AMD-P	95-07-111
230-25-055	AMD-P	95-07-111
230-25-070	AMD-P	95-07-111
230-25-330	AMD-P	95-07-111
230-40-400	AMD-E	95-05-070
230-40-400	AMD-P	95-06-011
230-40-400	AMD-C	95-09-060
230-46-010	AMD-P	95-07-111
230-48-010	NEW-E	95-07-065
230-48-010	NEW-P	95-07-096
230-50-010	AMD-C	95-04-040
230-50-010	AMD-C	95-06-013
230-50-010	AMD-C	95-07-097
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232-12-131	AMD	95-03-034
232-12-151	AMD	95-05-008
232-12-227	AMD	95-02-070
232-12-287	AMD-P	95-06-095
232-12-287	AMD	95-10-026
232-12-619	AMD	95-05-008
232-12-61900A	NEW-E	95-04-065
232-28-02202	AMD	95-03-024
232-28-02203	AMD	95-03-025
232-28-02204	AMD	95-03-026
232-28-02205	AMD	95-03-027
232-28-02206	AMD	95-03-028
232-28-02210	AMD	95-03-029
232-28-02220	AMD	95-03-040
232-28-02220	AMD-P	95-06-100
232-28-02220	AMD	95-11-035
232-28-02280	AMD	95-03-030
232-28-239	REP-P	95-06-099
232-28-239	REP	95-11-028
232-28-240	AMD	95-03-031
232-28-241	AMD	95-03-032
232-28-24102	NEW	95-03-035
232-28-242	AMD	95-03-033
232-28-243	REP-P	95-06-099
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232-28-245	REP	95-11-028
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232-28-246	AMD-P	95-06-107
232-28-246	AMD	95-11-037
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232-28-247	NEW	95-03-037
232-28-248	NEW	95-03-038
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232-28-248	AMD	95-11-036
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232-28-250	NEW-P	95-06-097
232-28-250	NEW	95-11-034
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232-28-256	NEW	95-11-030
232-28-257	NEW-P	95-06-096
232-28-257	NEW	95-11-027
232-28-619	AMD	95-05-008
232-28-619	AMD-P	95-06-093
232-28-619	AMD	95-10-027
232-28-61900A	NEW-E	95-04-065
232-28-61900B	NEW-E	95-07-018
232-28-61900C	NEW-E	95-09-050
232-28-61900D	NEW-E	95-09-051
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232-28-61941	REP-E	95-09-050
232-28-61942	REP-E	95-09-050
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232-28-61946	REP-E	95-09-050
232-28-61947	REP-E	95-09-050
232-28-61950	REP-E	95-09-050
232-28-61951	REP-E	95-09-050
232-28-61952	NEW-W	95-03-066
232-28-61953	REP-E	95-09-050
232-28-61954	REP-E	95-09-050
232-28-61957	REP-E	95-09-050
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236-15	PREP	95-11-131
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236-15-015	NEW	95-05-044
236-15-050	NEW	95-05-044
236-15-100	NEW	95-05-044
236-15-200	NEW	95-05-044
236-15-300	NEW	95-05-044
236-15-700	NEW	95-05-044
236-15-800	NEW	95-05-044
236-15-900	NEW	95-05-044
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240-10-040	AMD	95-09-025
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245-02-025	NEW	95-04-115
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245-03-040	NEW-P	95-06-075
245-03-040	NEW-W	95-07-037
245-03-050	NEW-P	95-06-075
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245-03-080	NEW-W	95-07-037
245-03-120	NEW-P	95-06-075
245-03-120	NEW-W	95-07-037
245-03-140	NEW-P	95-06-075
245-03-140	NEW-W	95-07-037
245-03-160	NEW-P	95-06-075
245-03-160	NEW-W	95-07-037
245-03-180	NEW-P	95-06-075
245-03-180	NEW-W	95-07-037
245-03-200	NEW-P	95-06-075
245-03-200	NEW-W	95-07-037
245-03-220	NEW-P	95-06-075
245-03-220	NEW-W	95-07-037
245-03-240	NEW-P	95-06-075
245-03-240	NEW-W	95-07-037
245-03-260	NEW-P	95-06-075
245-03-260	NEW-W	95-07-037
245-03-280	NEW-P	95-06-075
245-03-280	NEW-W	95-07-037
245-03-300	NEW-P	95-06-075
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245-03-390	NEW-P	95-06-075
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245-03-520	NEW-W	95-07-035
245-03-540	NEW-W	95-07-035
245-03-560	NEW-W	95-07-035
245-03-580	NEW-W	95-07-035
245-03-610	NEW-P	95-06-076
245-03-620	NEW-P	95-06-076
245-03-620	NEW-W	95-07-036
245-03-630	NEW-P	95-06-076
245-03-640	NEW-P	95-06-076
245-03-640	NEW-W	95-07-036
245-03-650	NEW-P	95-06-076
245-03-650	NEW-W	95-07-036
245-03-660	NEW-P	95-06-076
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245-03-670	NEW-P	95-06-076
245-03-680	NEW-P	95-06-076
245-03-680	NEW-W	95-07-036
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245-03-810	NEW-W	95-07-034
245-03-820	NEW-P	95-06-074
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245-03-830	NEW-P	95-06-074
245-03-830	NEW-W	95-07-034
245-03-840	NEW-P	95-06-074
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245-03-860	NEW-P	95-06-074
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245-04-080	NEW-P	95-06-077
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245-04-090	AMD-P	95-03-101
245-04-090	AMD	95-06-048
245-04-100	AMD-P	95-03-101
245-04-100	AMD	95-06-048
245-04-110	AMD-P	95-03-101
245-04-110	AMD	95-06-048

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245-04-125	NEW-P	95-04-113
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245-04-135	NEW-P	95-04-113
245-04-140	NEW-P	95-04-113
245-04-145	NEW-P	95-04-113
245-04-150	NEW-P	95-04-113
245-04-155	NEW-P	95-04-113
245-04-160	NEW-P	95-04-113
245-04-165	NEW-P	95-04-113
245-04-170	NEW-P	95-04-113
245-04-175	NEW-P	95-04-113
245-04-180	NEW-P	95-04-113
245-04-185	NEW-P	95-04-113
245-04-190	NEW-P	95-04-113
245-04-195	NEW-P	95-04-113
245-04-200	NEW-P	95-06-079
245-04-200	NEW-W	95-07-032
245-04-210	NEW-P	95-06-079
245-04-210	NEW-W	95-07-032
245-04-220	NEW-P	95-06-079
245-04-220	NEW-W	95-07-032
245-04-230	NEW-P	95-06-079
245-04-230	NEW-W	95-07-032
245-04-240	NEW-P	95-06-079
245-04-240	NEW-W	95-07-032
245-04-300	NEW-P	95-06-078
245-04-300	NEW-W	95-07-031
245-04-310	NEW-P	95-06-078
245-04-310	NEW-W	95-07-031
245-04-320	NEW-P	95-06-078
245-04-320	NEW-W	95-07-031
245-04-330	NEW-P	95-06-078
245-04-330	NEW-W	95-07-031
245-04-340	NEW-P	95-06-078
245-04-340	NEW-W	95-07-031
245-04-350	NEW-P	95-06-078
245-04-350	NEW-W	95-07-031
245-08-010	NEW-P	95-04-114
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245-08-020	NEW-P	95-04-114
245-08-020	NEW-W	95-07-030
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245-08-040	NEW-P	95-04-114
245-08-040	NEW-W	95-07-030
245-08-050	NEW-P	95-04-114
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246-01-040	AMD-P	95-07-054
246-01-040	AMD	95-10-043
246-01-080	AMD-P	95-07-054
246-01-080	AMD	95-10-043
246-100-166	PREP	95-05-012
246-100-236	AMD-S	95-08-026
246-170	AMD	95-04-035
246-170-001	REP	95-04-035
246-170-002	NEW	95-04-035
246-170-010	REP	95-04-035
246-170-011	NEW	95-04-035
246-170-020	REP	95-04-035
246-170-021	NEW	95-04-035
246-170-030	REP	95-04-035
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246-170-060	REP	95-04-035
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246-170-065	NEW	95-04-035
246-170-070	REP	95-04-035
246-170-080	REP	95-04-035
246-170-090	REP	95-04-035
246-249-020	AMD-P	95-04-100
246-249-080	AMD-P	95-04-100
246-254	PREP	95-05-058
246-254-053	AMD-P	95-08-066
246-254-070	AMD-P	95-08-066
246-254-080	AMD-P	95-08-066
246-254-090	AMD-P	95-08-066
246-254-100	AMD-P	95-08-066
246-254-120	AMD-P	95-08-066
246-255	PREP	95-05-058
246-272-25001	AMD-P	95-04-034
246-272-25001	AMD	95-09-018
246-290-990	PREP	95-05-059
246-291	PREP	95-09-017
246-314	PREP	95-07-073
246-314-990	AMD-P	95-09-059
246-316	PREP	95-07-073
246-316-990	AMD-P	95-09-059
246-318	PREP	95-07-073
246-318-990	AMD-P	95-09-059
246-322	PREP	95-07-073
246-322-990	AMD-P	95-09-059
246-322-991	AMD-P	95-09-059
246-323	PREP	95-07-073
246-323-990	AMD-P	95-09-059
246-325	PREP	95-07-073
246-325-990	AMD-P	95-09-059
246-326	PREP	95-07-073
246-326-990	AMD-P	95-09-059
246-327	PREP	95-07-073
246-327-990	AMD-P	95-09-059
246-331	PREP	95-07-073
246-331-990	AMD-P	95-09-059
246-336	PREP	95-07-073
246-336-990	AMD-P	95-09-059
246-358	PREP	95-11-072
246-358-010	AMD-E	95-08-018
246-358-020	AMD-E	95-08-018
246-358-085	AMD-E	95-08-018
246-358-140	AMD-E	95-08-018
246-380	PREP	95-07-073
246-560-001	PREP	95-06-073
246-560-010	PREP	95-06-073
246-560-015	PREP	95-06-073
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246-560-100	PREP	95-06-073
246-780	PREP	95-07-055
246-812	PREP	95-06-017
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246-812-610	NEW-E	95-09-029
246-812-620	NEW-E	95-09-029
246-812-630	NEW-E	95-09-029
246-812-990	NEW-E	95-09-029
246-815-050	AMD-P	95-03-018
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246-815-070	AMD	95-02-056
246-828-040	AMD-P	95-11-111
246-828-070	AMD-P	95-11-111
246-828-075	NEW-P	95-11-111
246-828-080	AMD-P	95-11-111
246-828-090	AMD-P	95-11-111
246-828-100	AMD-P	95-11-111
246-828-120	AMD-P	95-11-111
246-828-295	NEW-P	95-11-111
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246-828-320	AMD-P	95-11-111
246-828-360	AMD-P	95-11-111
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246-828-550	AMD-P	95-11-111
246-828-560	AMD-P	95-11-111
246-828-990	AMD-P	95-11-111
246-830-005	NEW-P	95-07-013
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246-830-230	AMD-P	95-07-013
246-830-230	AMD	95-11-108
246-830-401	AMD-P	95-07-013
246-830-401	AMD	95-11-108
246-830-410	REP-P	95-07-013
246-830-410	REP	95-11-108
246-830-420	AMD-P	95-07-013
246-830-420	AMD	95-11-108
246-830-430	AMD-P	95-07-013
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246-830-440	AMD-P	95-07-013
246-830-440	AMD	95-11-108
246-830-450	AMD-P	95-07-013
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246-830-475	AMD-P	95-07-013
246-830-475	AMD	95-11-108
246-830-610	AMD-P	95-07-013
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246-830-990	AMD-P	95-07-013
246-830-990	AMD	95-11-108
246-838-090	PREP	95-06-018
246-838-100	PREP	95-06-018
246-838-990	PREP	95-04-069
246-838-990	REP-P	95-08-049
246-839-030	PREP	95-09-058
246-839-080	PREP	95-06-018
246-839-090	PREP	95-06-018
246-839-090	PREP	95-09-058
246-839-575	PREP	95-09-058
246-839-990	PREP	95-04-069
246-839-990	REP-P	95-08-049
246-840-990	NEW-P	95-08-049

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246-843-010	AMD	95-07-128
246-843-090	AMD	95-07-128
246-843-205	AMD	95-07-128
246-843-240	REP	95-07-128
246-843-320	AMD	95-07-128
246-851-060	REP-P	95-11-110
246-851-070	REP-P	95-11-110
246-851-080	REP-P	95-11-110
246-851-480	AMD-P	95-11-110
246-851-490	AMD-P	95-11-110
246-851-500	AMD-P	95-11-110
246-851-560	NEW	95-04-084
246-851-990	PREP	95-09-056
246-851-990	AMD-P	95-11-109
246-858-020	PREP	95-06-036
246-861	AMD-C	95-03-070
246-861-010	AMD	95-08-019
246-861-020	AMD	95-08-019
246-861-030	REP-W	95-08-062
246-861-040	AMD	95-08-019
246-861-050	AMD	95-08-019
246-861-055	NEW	95-08-019
246-861-060	AMD	95-08-019
246-861-090	AMD-W	95-08-051
246-887-160	PREP	95-07-086
246-891-020	AMD-P	95-04-099
246-891-020	AMD	95-08-020
246-891-030	AMD-P	95-04-099
246-891-030	AMD	95-08-020
246-924-080	PREP	95-09-028
246-924-250	PREP	95-09-028
246-924-470	PREP	95-09-028
246-924-500	PREP	95-09-028
246-924-990	PREP	95-08-050
246-928-990	PREP	95-10-042
246-937-010	NEW	95-04-083
246-937-020	NEW	95-04-083
246-937-030	NEW	95-04-083
246-937-040	NEW	95-04-083
246-937-050	NEW	95-04-083
246-937-060	NEW	95-04-083
246-937-070	NEW	95-04-083
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246-937-110	NEW	95-04-083
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250-20-021	AMD-P	95-03-014
250-20-021	AMD	95-10-007
250-28-020	AMD	95-11-059
250-28-030	AMD	95-11-059
250-28-060	AMD	95-11-059
250-28-060	AMD-P	95-11-125
250-28-070	AMD	95-11-059
250-28-090	NEW-P	95-11-125
250-28-100	NEW-P	95-11-125
250-44	AMD-C	95-02-067
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250-44-050	AMD	95-07-087
250-44-110	AMD-E	95-02-068
250-44-110	AMD	95-07-087
250-44-130	AMD-E	95-02-068
250-44-130	AMD	95-07-087
250-79	PREP	95-09-082
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250-79-020	NEW-P	95-10-061
251-04-060	AMD-P	95-10-077
251-09-020	AMD-P	95-10-078
251-17-010	AMD-P	95-10-079
251-17-020	AMD-P	95-10-080
251-17-110	AMD-P	95-10-081
251-17-200	AMD-P	95-10-082
251-19-070	AMD-P	95-10-083
251-19-157	AMD-P	95-10-084
251-22-040	AMD-P	95-10-085
253-16	PREP	95-07-131
260-12-010	PREP	95-05-078
260-12-010	AMD-P	95-07-140
260-12-250	NEW	95-07-142
260-40-100	PREP	95-05-078
260-40-100	AMD-P	95-07-143
260-48-320	AMD-P	95-05-079
260-48-320	AMD	95-07-141
263-12-015	AMD	95-02-065
263-12-080	AMD	95-02-065
263-12-140	AMD	95-02-065
263-12-155	AMD	95-02-065
263-12-190	AMD	95-02-065
275-45	PREP	95-11-001
284-20-200	NEW-S	95-06-086
284-20-200	NEW	95-09-014
284-24-060	PREP	95-03-077
284-30	NEW-C	95-06-019
284-30-900	NEW-P	95-02-075
284-30-900	NEW-S	95-06-086
284-30-900	NEW	95-09-014
284-30-905	NEW-P	95-02-075
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284-30-905	NEW	95-09-014
284-30-910	NEW-P	95-02-075
284-30-910	NEW-S	95-06-086
284-30-910	NEW	95-09-014
284-30-920	NEW-P	95-02-075
284-30-920	NEW-S	95-06-086
284-30-920	NEW	95-09-014
284-30-930	NEW-P	95-02-075
284-30-930	NEW-S	95-06-086
284-30-930	NEW	95-09-014
284-30-940	NEW-P	95-02-075
284-30-940	NEW-S	95-06-086
284-30-940	NEW	95-09-014
284-30-950	NEW-P	95-02-075
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284-54-030	AMD-W	95-03-076
284-54-040	NEW-W	95-03-076
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284-54-180	NEW-W	95-03-076
284-54-190	NEW-W	95-03-076
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284-54-300	AMD-W	95-03-076
284-54-350	AMD-W	95-03-076
284-87-030	AMD-P	95-02-076
284-87-030	AMD	95-05-034
287-01-030	NEW-P	95-10-101
287-04-031	AMD-P	95-10-102
292-09-010	NEW	95-05-031
292-09-020	NEW	95-05-031
292-09-030	NEW	95-05-031
292-09-040	NEW	95-05-031
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292-09-060	NEW	95-05-031
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292-09-140	NEW	95-05-031
292-09-150	NEW	95-05-031
292-09-160	NEW	95-05-031
292-09-170	NEW	95-05-031
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292-100-020	NEW-E	95-04-004
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292-100-110	NEW-E	95-04-004
292-100-110	NEW-E	95-11-068
296-04-001	AMD	95-07-117
296-04-005	AMD	95-07-117
296-04-015	AMD	95-07-117
296-04-160	AMD	95-07-117
296-04-165	AMD	95-07-117
296-04-270	AMD	95-07-117
296-04-320	REP	95-07-117
296-04-440	AMD	95-07-117
296-17-320	AMD	95-08-052
296-17-350	AMD	95-08-052
296-17-35201	NEW	95-08-052
296-17-904	AMD	95-06-069
296-17-913	AMD	95-06-069
296-17-914	AMD	95-06-069
296-17-915	AMD	95-06-069
296-17-919	AMD	95-06-069
296-17-91901	AMD	95-06-069
296-17-91902	AMD	95-06-069
296-17-91903	AMD	95-06-069
296-17-91904	AMD	95-06-069
296-17-91905	AMD	95-06-069
296-20-01002	AMD-P	95-10-092
296-20-135	AMD	95-05-072
296-20-135	AMD-P	95-11-091
296-20-17003	REP-P	95-10-092
296-23-220	AMD	95-05-072
296-23-230	AMD	95-05-072
296-23-265	AMD	95-04-056
296-23A-400	AMD	95-05-072
296-24	PREP	95-09-086
296-24-12001	AMD-P	95-10-093
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388-15-955	NEW-P	95-11-005
388-18	PREP	95-06-034
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388-49-505	PREP	95-07-071
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388-73	AMD-C	95-05-024
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388-73-524	NEW-S	95-07-024
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388-73-606	AMD-S	95-07-024
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388-86-095	PREP	95-08-043
388-87-072	AMD	95-04-033
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388-216-2650	PREP	95-09-012
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388-250-1200	AMD	95-07-123
388-250-1700	AMD	95-03-046
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388-330	PREP	95-11-006
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399-30-040	AMD	95-11-093
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